

JOURNAL  
OF THE  
CONSTITUTIONAL CONVENTION

FOR  
NORTH DAKOTA,

HELD AT  
BISMARCK, THURSDAY, JULY 4 to AUG. 17, 1889,

TOGETHER WITH THE  
ENABLING ACT OF CONGRESS AND THE PROCEEDINGS OF THE JOINT  
COMMISSION APPOINTED FOR THE EQUITABLE  
DIVISION OF TERRITORIAL PROPERTY.

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BISMARCK, NORTH DAKOTA.:  
TRIBUNE, STATE PRINTERS AND BINDERS.  
1889.

# Journal of the Convention

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BISMARCK, D. T., July 4, 1889.

The delegates elected to the convention to form a constitution for the new state of North Dakota assembled this day at 12 o'clock m., in the hall of the house of representatives in the territorial capitol in the city of Bismarck, under and by virtue of the provisions of the act of congress, approved February 2, 1889: "An act to provide for the division of Dakota into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments, and to be admitted into the union on an equal footing with the original states, and to make donations of public lands to such states."

Hon. L. B. Richardson, secretary of the territory of Dakota, called the convention to order.

Prayer by Rev. Dr. Anderson, of Bismarck.

Secretary Richardson delivered a brief address to the delegates.

Mr. Parsons moved that John A. Rea, of Bismarck, be elected secretary *pro tem.* Carried.

Mr. Harris moved that R. M. Tuttle be elected stenographer *pro tem.* Carried.

Mr. Parsons moved that the convention proceed to the election of a president.

Mr. Williams moved, as an amendment, that the convention proceed to the election of a president *pro tem.* Amendment carried.

The original motion, as amended, was adopted.

Mr. Moer moved that F. B. Fancher be elected president *pro tem.*

The motion was agreed to.

Mr. Johnson and Mr. Williams were appointed a committee to escort Mr. Fancher to the chair, and the duty assigned to them was duly performed.



Mr. Scott moved that a committee of three on credentials be appointed by the chair. Carried.

The president appointed as that committee Messrs. Rowe, Miller and Meacham.

Mr. Stevens moved that a committee of ten on rules for permanent organization be appointed. Carried.

Messrs. Stevens, Colton, Scott, Bennett, Turner, Camp, Slotten, Allen, Clark and Appleton were appointed as that committee. Carried.

Mr. Williams moved that the convention adjourn until 10 o'clock a. m., to-morrow.

The motion was agreed to, and the convention adjourned.

JOHN A. REA,  
Secretary *pro tem.*

FRIDAY, JULY 5, 1889—10 O'Clock A. M.

The convention met at 10 o'clock a. m., the president *pro tem.* in the chair.

Prayer by the Rev. Mr. Kline.

Mr. Spaulding moved that editors and newspaper reporters be admitted within the bar of the house.

Which motion prevailed.

Mr. Harris moved that the privileges of the floor be extended to Ex-Govs. Pierce and Ordway.

After an amendment so as to include all ex-federal and territorial officials, the motion was agreed to.

Telegrams of congratulation from the presidents of the Washington and South Dakota constitutional conventions were read.

Mr. Rowe, from the committee on credentials, reported as follows:

We, the committee on credentials, find the following-named persons entitled to seats in the constitutional convention now assembled, as shown by the records in the territorial secretary's office:

First District—H. L. Holmes, R. B. Richardson, W. B. Best.

Second District—Joseph Powles, John McBride, A. F. Appleton.

Third District—C. P. Parsons, P. McHugh, R. B. Glick.

Fourth District—V. B. Noble, J. L. Colton, Ezra Turner.

Fifth District—E. A. Williams, Harvey Harris, John E. Carland.

Sixth District—A. W. Hoyt, A. S. Parsons, Wm. Ray.

Seventh District—J. B. Gayton, G. H. Fay, C. V. Brown.

Eighth District—W. H. Rowe, A. D. Flemington, L. D. Bartlett.

Ninth District—S. H. Moer, R. N. Stevens, Andrew Sandager.

Tenth District—John Shuman, J. D. McKenzie, John Powers.  
 Eleventh District—W. S. Lauder, Andrew Slotten, W. E. Purcell.

Twelfth District—H. F. Miller, B. F. Spalding, J. Lowell.

Thirteenth District—Addison Leach, R. M. Pollock, H. M. Peterson.

Fourteenth District—E. W. Chaffee, Wm. J. Clapp, Enos Gray.

Fifteenth District—Elmer Elliott, J. W. Scott, J. Wellwood.

Sixteenth District—E. W. Camp, F. B. Fancher, Andrew Blewett.

Seventeenth District—E. S. Rolfe, H. M. Clark, O. G. Meacham.

Eighteenth District—David Bartlett, E. D. Wallace, E. M. Paulson.

Nineteenth District—J. F. Selby, M. F. Hegge, Knud J. Nomland.

Twentieth District—Wm. Budge, Richard Bennett, Alexander Griggs.

Twenty-first District—A. P. Haugen, J. H. Mathews, Chas. Carothers.

Twenty-second District—M. N. Johnson, M. V. Linwell, T. W. Bean.

Twenty-third District—A. O. Whipple, Edward Lohnes, J. F. O'Brien.

Twenty-fourth District—A. D. Robertson, M. K. Marrison, James Bell.

Twenty-fifth District—Roger Allin, John Almen, James Douglas.

W. H. ROWE,  
 Chairman.  
 O. G. MEACHAM.  
 H. F. MILLER.

Mr. McHugh moved that the report of the committee be adopted.

Motion agreed to.

Mr. Williams moved that the convention proceed to the election of a president. Carried.

Mr. Camp placed in nomination F. B. Fancher, of Stutsman county.

Mr. Purcell placed in nomination John E. Carland, of Burleigh.

Mr. Carland moved that the oath of office be administered to the members by the Hon. Roderick Rose, associate justice of the supreme court. Agreed to.

The oath of office was then administered to all the members.

The roll being called, the following was the vote of the convention for president:

Those voting for Mr. Fancher were

Messrs. Allin, Almen, Bartlett of Dickey, Bartlett of Griggs, Bean, Bennett, Brown, Budge, Camp, Carland, Carothers, Chaffee,

Clap, Clark, Colton, Elliott, Flemington, Gayton, Harris, Haugen, Holmes, Hoyt, Johnson, Lauder, Leach, Linwell, Mathews, McHugh, McKenzie, Meacham, Miller, Moer, Nomland, Parsons of Morton, Parsons of Rolette, Paulson, Peterson, Powles, Pollock, Richardson, Robertson, Rolfe, Rowe, Sandager, Scott, Selby, Shuman, Slotten, Spaulding, Stevens, Turner, Wallace, Wellwood, Williams—54.

Those voting for Mr. Carland were

Messrs. Appleton, Bell, Best, Blewett, Douglas, Fancher, Glick, Gray, Griggs, Lowell, Marrinan, McBride, Noble, O'Brien, Powers, Purcell—16.

Absent and not voting:

Messrs. Fay, Lohnes, Hegge and Whipple—5.

Mr. Carland moved that the election of Mr. Fancher be declared unanimous. Carried.

The chair appointed Messrs. Carland and Camp a committee of two to escort Mr. Fancher to the chair, and the duty assigned them was duly performed.

Mr. Fancher returned his thanks to the convention for the honor conferred upon him speaking as follows:

GENTLEMEN: As a presiding officer I cannot promise very much. I am not very well versed in parliamentary law, but I think I will venture to do my best to please you, to endeavor to carry out your wishes and to assist you in embodying in the constitution for North Dakota the sound judgment and level-headedness of the whole people of North Dakota, and not to foster the interests of any man or particular class of men. If, after some experience, I shall succeed in meeting your approval, the end attained will have justified you in your action to-day. If I shall be so unfortunate as to fail, I do most solemnly assure you it shall not have been my fault, but my misfortune, for I will make every effort to succeed.

Mr. Williams moved that a committee of seven be appointed on rules.

The motion was agreed to.

As that committee the president appointed Williams of Burleigh, Parsons of Morton, Turner of Bottineau, Carland of Burleigh, Allin of Walsh, Stevens of Ransom and Johnson of Nelson.

The convention took an informal recess, during which the drawing for seats took place.

Mr. Scott moved that the secretary be instructed to procure five hundred copies of the enabling act for the use of the delegates.

Motion agreed to.

Mr. Stevens moved that the convention adjourn until 2 o'clock p. m. to-morrow. Carried.

JOHN A. REA,

Secretary *pro tem.*

SATURDAY, JULY 6, 1889—2 O'Clock P. M.

The Convention met pursuant to adjournment, Mr. President in the chair.

Prayer by the Rev. Mr. Kline.

Roll called.

Quorum present.

Mr. Johnson moved the following resolution:

*Resolved*, That the privilege of the floor heretofore extended to all representatives of the press, be withdrawn from one Marshall McClure, of the Devils Lake Daily Capital.

Mr. McHugh moved to lay the resolution on the table. Carried.

Mr. Carland, from the Committee on Rules, submitted its report, which was read.

Mr. Camp moved that the Secretary be directed to have the report of the Committee on Rules printed, and a copy of them laid on every member's desk, and further consideration of the report postponed until the report be so printed and distributed.

Mr. Wallace moved, as an amendment, that so much of the report as refers to standing committees be adopted.

Mr. Purcell moved, as an amendment to the amendment, that so much of the report as refers to the officers be adopted. Carried.

The original motion, as amended, was agreed to.

The Convention adjourned until 2 o'clock p. m. Monday, July 8th.

JOHN A. REA,  
Secretary *pro tem*.

MONDAY, July 8, 1889. --2 O'Clock P. M.

The Convention assembled at 2 o'clock p. m. pursuant to adjournment. The President presiding.

Prayer by Rev. Geo. Kline.

Roll called.

Quorum present.

The minutes of the preceding session were read and approved.

Mr. Williams moved that the Convention proceed to the election of the permanent officers of the Convention.

Which motion prevailed.

Mr. Williams nominated J. G. Hamilton of Grand Forks as chief clerk.

Mr. Parsons of Morton moved that the election of J. G. Hamilton be by a rising vote.

Which motion prevailed, and J. G. Hamilton was declared the duly elected chief clerk.

Mr. Miller moved that the election of the officers of the Convention be by a *viva voce* vote.

Which motion prevailed.

Mr. Johnson moved that Fred Falley of Richland county be elected sergeant-at-arms.

Which motion prevailed, and Mr. Falley was declared the duly elected sergeant-at-arms.

Mr. Rowe moved that C. C. Bowsfield of Dickey county be elected the enrolling and engrossing clerk.

Which motion prevailed, and Mr. Bowsfield was declared elected enrolling and engrossing clerk.

Mr. Spalding moved that E. W. Knight, of Cass county, be elected messenger, which motion prevailed, and Mr. Knight was declared elected messenger.

Mr. Harris moved that George Wentz, of Burleigh county, be elected doorkeeper, which motion prevailed, and Mr. Wentz was declared elected doorkeeper.

Mr. Scott moved that J. S. Weiser, of Barnes county, be elected watchman, which motion prevailed, and Mr. Weiser was declared elected watchman.

Mr. Parsons, of Morton, moved that R. M. Tuttle, of Morton county, be elected permanent stenographer, which motion prevailed, and Mr. Tuttle was declared elected stenographer.

Mr. Williams moved that Rev. George Kline be elected chaplain, which motion prevailed, and Mr. Kline was declared elected chaplain.

Mr. Williams moved that Arthur Linn, Harry G. Ward, Charles W. Conroy and Charles Lauder be elected pages, which motion prevailed, and Arthur Linn, Harry G. Ward, Charles Lauder and Charles W. Conroy were declared elected pages.

The oath of office was then administered to all the foregoing officers by the President of the Convention.

Mr. Selby offered the following resolution, and moved its adoption:

**WHEREAS**, The organization of the Constitutional Convention for the purpose of framing a constitution for the proposed state of North Dakota is now perfected; therefore

*Resolved*, That we, the delegates of said Constitutional Convention for and on behalf of the people of said proposed state of North Dakota, hereby declare that we adopt the constitution of the United States.

Which resolution was adopted.

Mr. Spalding moved that the committee to agree upon a settlement and adjustment of the indebtedness and property of the territory as between North and South Dakota shall consist of seven members, and that the committee be authorized to employ such clerical assistance as they may deem necessary.

Which motion prevailed.

Mr. Carland offered the following resolution, and moved its adoption:

*Resolved*, That the President of this Convention appoint seven of its members to act as members of the joint commission to be appointed by the Constitutional Conventions of North and South Dakota, for the purpose of making an equitable division of all property belonging to the Territory of Dakota, and to adjust and agree upon the amount of the debts and liabilities of said territory which shall be assumed and paid by each of the proposed states of South and North Dakota.

Which resolution was adopted.

Mr. Williams moved that the Convention proceed to the consideration of the report of the Committee on Rules,

Which motion prevailed.

Mr. Johnson moved that the Convention consider the report *seriatim*,

Which motion prevailed.

Mr. Scott moved that the Convention do now resolve itself into a Committee of the Whole to consider the report of the Committee on Rules,

Which motion prevailed.

The President called Mr. Scott to the chair.

When the Committee rose the following report was presented:

**MR. PRESIDENT:**

Your Committee of the Whole have had under consideration the report of the Committee on Rules, and respectfully recommend that the words: "when prayer shall be offered by the chaplain" be inserted after the word "order," in the second line of Rule 1, and with this amendment, recommend the adoption of the report of the Committee on Rules.

JOHN W. SCOTT,  
Chairman.

Mr. Miller moved that the report be adopted.

Which motion prevailed.

Mr. Scott moved to add to the committees named in the report a committee on the amendment and revision of the constitution, on homesteads and exemptions and on railroads, each committee to consist of five members.

Mr. Noble moved to amend by making the committee on railroads consist of nine.

Which motion was lost, and the original motion being put, was lost.

The rules as amended and adopted are as follows:

#### RULES FOR THE REGULATION OF THE PROCEEDINGS OF THE CONVENTION.

##### OF THE DUTIES OF THE PRESIDENT.

1. He shall take the chair at the hour of meeting of the Convention, and immediately call the delegates to order, when prayer shall be offered by the chaplain, and if upon call of the roll a quorum shall be present, shall cause the Journal of the preceding day to be read, which may be then corrected by the Convention.

2. He shall preserve order and decorum in debate, shall prevent personal reflections, and confine members to the question under consideration. When two or more delegates arise at the same time, he shall name the one entitled to the floor.

3. He shall decide all questions of order. An appeal from his decision may be made by any delegate, or the President may in the first instance submit the question to the Convention. On questions of order there shall be no debate, except on appeal from the decision of the President, or on a reference of a question by him to the Convention, when no delegate shall speak more than once, unless by leave of the Convention.

4. While the President is putting a question or addressing the Convention, none shall walk out of or across the house, or when a delegate is speaking shall entertain private discourse; nor while a delegate is speaking shall pass between him and the chair.

5. The President shall appoint the standing committees, unless otherwise ordered by the Convention.

6. He shall have a general direction of the hall. He may name a delegate to perform the duties of the Chair, but such substitution shall not extend beyond an adjournment. In case of the sickness or necessary absence of the President, he may appoint a President *pro tempore* for any period not exceeding ten days, after which, or in default of such appointment by the President, a President *pro tempore* shall be chosen by the Convention. While the President *pro tempore* officiates, he shall be clothed with all the powers, and perform all the duties of the President.

##### OF THE ORDER OF BUSINESS.

7. After the Journal has been read, the order of business shall be as follows:

1. Letters, petitions, memorials, remonstrances and accompanying documents may be presented and referred.
2. Leave of absence may be asked and original resolutions offered, and on motion considered.
3. Reports of committees may be made:
  - 1st. From standing committees in their order.
  - 2d. From select committees.
4. Articles on third reading.
5. Reports and resolutions may, on motion, be considered.
6. Articles in the following order:
  - 1st. Those in which the Convention has made progress on second reading.
  - 2d. Those reported by a committee of the whole.
  - 3d. Those in which the committee of the whole has made progress, and has leave to sit again.
  - 4th. Those not yet considered in committee of the whole, shall be taken up.

## OF BUSINESS AND DEBATE.

8. When a delegate is about to speak in debate, or to communicate any matter to the Convention, he shall rise and respectfully address Mr. President, and upon being recognized by the president shall continue, confining his remarks to the subject before the Convention, and avoiding personal reflections.
9. If any delegate in debate transgresses the rules of the Convention, the President shall, or any delegate may, through the President, call him to order; the delegate so called to order shall immediately sit down, unless permitted to explain. The Convention shall, if appealed to, decide on the case, but without debate. If there be no appeal, the decision of the President shall be submitted to, and if the case requires it, the delegate so called to order shall be liable to the censure of the Convention.
10. No delegate shall speak more than twice to the same question without leave of the Convention.
11. No delegate, when speaking, shall be interrupted, except by a call to order by the President, or by a delegate through the President, or by a member to explain, nor shall any delegate be referred to by name, in debate, unless for a transgression of the rules of the Convention, and then by the President only.
12. A delegate presenting a petition or other paper to the Chair, shall state only the general purport of it. The name of every delegate presenting a petition, or other paper, or making a motion, shall be entered on the journals.
13. No member shall be permitted to make a motion, or address the President, unless such member shall be at his own desk.

## ON MOTIONS.

14. All motions made and seconded shall be repeated by the President, who shall put the question distinctly in the following form, viz:
 

“As many as are of opinion,” [as the question may be.] “say Aye.” And after the affirmative is expressed, “as many as are of a contrary opinion, say No.” But the President, or any delegate, may call for a division of the Convention, when the President shall again put the question distinctly and in the following manner, viz: “As many as are in the affirmative will rise.” And when he has announced the number in the affirmative, he shall put the opposite side of the question, “As many as are in the negative will rise.”
15. If the President, or any delegate requires it, a motion made shall be reduced to writing. Any motion may be withdrawn by the mover before amendment or decision.
16. Any delegate may call for the division of a question, which shall be divided if it comprehends questions so distinct that on being taken away, the rest may stand entire for the decision of the Convention. A motion to strike out or insert shall be deemed indivisible, but a motion to strike out being lost shall preclude neither amendment nor a motion to strike out and insert.



## OF PRIVILEGED QUESTIONS.

17. No business before the convention shall be interrupted except by a motion

For adjournment.

For the previous question, viz: "shall the main question be now put."

For postponement.

For commitment.

For amendment.

For reconsideration.

18. A motion for adjournment shall always be in order and shall be decided without debate, except it shall not be received when the Convention is voting on another question, nor while a delegate is addressing the Convention. When a call for the previous question has been made and sustained, the question shall be upon pending amendments and the main question, in their regular order, and all incidental questions of order arising after a motion for the previous question has been made, and pending such motion shall be decided on appeal or otherwise without debate. But the previous question shall not be called by less than ten delegates rising for the purpose, and shall be decided without debate. A motion for postponement shall preclude commitment. A motion for commitment shall preclude amendment or decision on the original subject. A motion to postpone for the present, or to a day certain shall be decided without debate.

19. No motion for reconsideration shall be permitted unless made and seconded by delegates who were in the majority on the vote on the original question, and within six days of actual session after the decision.

20. When a blank is to be filled, the question shall be first taken on the largest sum, the greatest number and the remotest day.

21. In all cases of elections, a majority of the delegates present shall be necessary to a choice, and the voting shall be *viva voce*.

## OF COMMITTEES.

22. Committees may be of three kinds, to-wit:

Committees of the whole.

Standing committees as follows:

1. On printing, consisting of five members.
2. On reporting and publication, consisting of five members.
3. On accounts and expenses, consisting of seven members.
4. On the preamble and declaration of rights, consisting of nine members.
5. On legislative department, consisting of thirteen members.
6. On the executive department, consisting of nine members.
7. On the judicial department, consisting of fifteen members.
8. On the Elective Franchise, consisting of thirteen members.
9. On Education, consisting of seven members.
10. On Public Institutions and Buildings, consisting of nine members.
11. On Public Debt and Public Works, consisting of nine members.
12. On Militia, consisting of five members.
13. On County and Township Organization, consisting of nine members.
14. On Apportionment and Representation, consisting of twenty-five members.
15. On Revenue and Taxation, consisting of fifteen members.
16. On Municipal Corporations, consisting of nine members.
17. On Corporations other than Municipal, consisting of nine members.
18. On Miscellaneous Subjects, consisting of seven members.
19. On Schedule, consisting of seven members.
20. School and other Public Lands, consisting of thirteen members.
21. On Temperance, consisting of five members.
22. On Revision and Adjustment, consisting of five members.
23. On Impeachment and Removal from Office, consisting of seven members.

**Select committees.**

23. Every member of the committee shall attend the call of the chairman, who shall be the person first named on such committee, and in case of the neglect of the chairman, or in case of his absence, by sickness or other cause, the committee shall attend the call of the person named next on the committee.

24. No committee shall sit during the sitting of the Convention without leave of the Convention

**OF THE COMMITTEE OF THE WHOLE.**

25. The rules and proceedings observed in the Convention, shall be observed as far as they are applicable in Committee of the Whole, except that a delegate may speak oftener than twice on the same subject, nor can a motion for the previous question be made therein.

26. When the Convention resolves itself into a Committee of the Whole, the President shall appoint a chairman, unless ordered by the Convention

27. Amendments made in Committee of the Whole shall be read on the President resuming the chair, and shall be entered on the Journal.

28. When in Committee of the Whole, any paper laid upon the table of the Convention may be called for by a delegate and read, unless the committee otherwise order.

29. It shall be the duty of the several standing committees to take into consideration the several subjects, and all resolutions touching the same, referred to them by the Convention, and to report thereon.

30. When the names of the delegates shall be called, it shall be done in alphabetical order, except Mr. President, who shall be called last.

31. The yeas and nays of the delegates on any question shall at the desire of any two of them be entered on the Journals, and the delegates shall have the right to insert the reasons of their votes on the Journals.

32. No delegate shall absent himself without first obtaining leave of the Convention.

33. No delegate shall be permitted to vote on an any question unless he be within the bar, and when the yeas and nays are called, be present to answer to his name before the name of the President is called.

34. On the call of yeas and nays, one of the clerks shall read the names of the delegates after they have been called, and no delegate shall be permitted to change his vote unless he at that time declares that he voted under a mistake of the question.

35. On the call of a member for the consideration of a resolution or other subject, on the table of the Convention, the question shall be decided without debate.

36. None but members of the Convention and its officers, and such stenographers, reporters or other persons as shall have permission given them by the President or Convention, shall be permitted to come within the bar of the Convention during its session.

37. No smoking shall be allowed within the hall at any time, whether the Convention be in session or not.

38. No rule shall be altered or dispensed with but by two-thirds of the delegates present.

39. The roll shall be called at any time upon the demand of any fifteen members. A majority of the convention shall constitute a quorum for the transaction of business, but a smaller number may adjourn from day to day and be authorized to compel the attendance of members.

40. The hour of meeting of the convention shall be two o'clock p. m. each day, except Sundays until otherwise ordered.

41. The permanent officers of the convention shall be as follows: President, chief clerk, enrolling and engrossing clerk, sergeant-at-arms, messenger, watchman, doorkeeper, chaplain, stenographer, four pages.

42. All portions of the proposed constitution shall receive three several readings in convention before their passage and the second and third readings shall not occur on the same day.

43. The rules of parliamentary practice contained in Roberts' Rules of

Order shall govern the convention in all cases to which they are applicable and in which they are not inconsistent with the standing rules of this Convention.

Messrs. Clapp, Leach and Chaffee were excused for the day.

Mr. Parsons was excused until Friday.

Mr. Miller moved that when the Convention adjourn it adjourn to meet on Thursday at 2 o'clock p. m.

Which motion prevailed.

Mr. Turner moved that the Convention resolve itself into a Committee of the Whole to listen to an address by Mr. Blackwell.

Which motion prevailed, and the President called Mr. Selby to the chair.

The committee rose without report.

Mr. Spalding offered the following resolution, and moved its adoption:

*Resolved*, That the Auditor of the Territory be requested to furnish at once for the use of this convention a statement showing the cost of construction and repairs of all public buildings and institutions of the Territory, the indebtedness incurred and outstanding against the same, what part of such indebtedness was by the acts creating it to be assumed by the states of North Dakota and South Dakota, respectively, all assets and liabilities of the Territory, and to what accounts the same belong, a list of all public records, archives and other property of that nature now belonging to the Territory, and all other information within his department necessary for the use of this convention or any committee thereof, in dividing the property, assets and liabilities of the Territory of Dakota.

Which resolution was adopted.

Mr. Williams moved to correct the journal of July 5th so as to show that Mr. Meacham voted for Mr. Fancher for President.

Mr. Stevens moved to adjourn,

Which motion prevailed, and the Convention adjourned.

JOHN G. HAMILTON,  
Chief Clerk.

## THURSDAY, JULY 11, 1889.

The Convention assembled at 2 o'clock, p. m., pursuant to adjournment, the President presiding.

Prayer was offered by the chaplain.

The roll was called, all members being present except Messrs. Bean, Bennett, Haugen, Linwell, Lohnes, Nomland, Parsons of Morton, and Whipple, who were excused.

The minutes of the sessions of July 4th, 5th, 6th and 8th were read, corrected and approved.

An invitation from the chamber of commerce of West Superior, Wisconsin, to attend the waterways convention was presented.

Mr. Williams moved that the communication be referred to a special committee of five.

Which motion prevailed.

The President appointed as such committee Messrs. Williams, Leach, Appleton, Powles and Gayton.

The President appointed the following commission for the equitable distribution of territorial property:

Messrs. Camp of Stutsman, Purcell of Richland, Spalding of Cass, Harris of Burleigh, Griggs of Grand Forks, Scott of Barnes, Sandager of Ransom.

The President announced the following standing committees of the Convention.

*Printing*—Roger Allin, chairman, Walsh; C. P. Parsons, Towner; C. V. Brown, Wells; J. B. Gayton, Emmons; W. J. Clapp, Cass.

*Reporting and Publication*—J. F. Selby, chairman, Traill; Andrew Blewett, Stutsman; J. Wellwood, Barnes; O. G. Meacham, Foster; A. S. Parsons, Morton.

*Accounts and Expenses*—O. G. Meacham, chairman, Foster; E. W. Paulson, Traill; A. W. Hoyt, Morton; B. R. Glick, Cavalier; M. F. Hegge, Traill; Edward Lohnes, Ramsey; Elmer Elliott, Barnes.

*Preamble and Bill of Rights*—R. N. Stevens, chairman, Ransom; Elmer Elliott, Barnes; A. D. Flemington, Dickey; S. H. Moer, LaMoure; Joseph Powles, Cavalier; M. V. Linwell, Nelson; J. E. Carland, Burleigh; E. W. Chaffee, Cass; Ezra Turner, Bottineau.

*Legislative Department*—E. A. Williams, chairman, Burleigh; Roger Allin, Walsh; W. E. Purcell, Richland; Addison Leach, Cass; E. S. Rolfe, Benson; R. B. Richardson, Pembina; R. N. Stevens, Ransom; Andrew Slotten, Richland; J. W. Scott, Barnes; Knud, Nomland, Traill, A. F. Appleton, Pembina; William Budge, Grand Forks; W. H. Rowe, Dickey.

*Executive*—W. H. Rowe, chairman, Dickey; John Shuman, Sargent; J. H. Mathews, Grand Forks; H. F. Miller, Cass; Alexander Griggs, Grand Forks; David Bartlett, Griggs; J. A. Douglas, Walsh; J. L. Colton, Ward; William Ray, Stark.

*Judicial Department*—John E. Carland, chairman, Burleigh; W. S. Lauder, Richland; David Bartlett; Griggs; J. F. Selby, Traill; R. M. Pollock, Cass; J. F. O'Brien, Ramsey; B. F. Spalding, Cass; M. K. Marrinan, Walsh; Richard Bennett, Grand Forks; S. H. Moer, LaMoure; V. B. Noble, Bottineau; R. N. Stevens, Ransom; A. D. Robertson, Walsh; M. N. Johnson, Nelson; W. H. Rowe, Dickey.

*Elective Franchise*—A. S. Parsons, chairman, Morton; Charles Carothers, Grand Forks; Ezra Turner, Bottineau; R. M. Pollock, Cass; H. M. Clark, Eddy; James Bell, Walsh; J. Wellwood, Barnes; G. H. Fay, McIntosh; M. F. Hegge, Traill; O. G. Meacham, Foster; W. B. Best, Pembina; William Ray, Stark; V. B. Noble, Bottineau.

*Education*—J. D. McKenzie, chairman, Sargent; H. M. Clark, Eddy; W. J. Clapp, Cass; Elmer Elliott, Barnes; Chas. Carothers, Grand Forks; J. McBride, Cavalier; J. A. Douglas, Walsh.

*Public Institutions and Buildings*—H. F. Miller, chairman, Cass; A. O. Whipple, Ramsey; Richard Bennett, Grand Forks; Joseph Powers, Sargent, M. K. Marrinan, Walsh; J. W. Scott, Barnes; E. A. Williams, Burleigh; E. W. Camp, Stutsman; A. W. Hoyt, Morton.

*Public Debt and Public Works*—E. D. Wallace, chairman, Steele; T. W. Bean, Nelson; Knud Nomland, Traill; J. Lowell, Cass; H. L. Holmes, Pembina; Alexander Griggs, Grand Forks; B. R. Glick, Cavalier; J. Powers, Sargent; G. H. Fay, McIntosh.

*Militia*—P. McHugh, chairman, Cavalier; G. H. Fay, McIntosh; John Almen, Walsh; Andrew Blewett, Stutsman; J. H. Mathews, Grand Forks.

*County and Township Organizations*—A. F. Appleton, chairman, Pembina; T. W. Bean, Nelson; Enos Gray, Cass; E. S. Rolfe, Benson; J. McBride, Cavalier; A. Sandager, Ransom; John Shuman, Sargent; E. W. Chaffee, Cass; M. V. Linwell, Grand Forks.

*Apportionment and Representation*—Andrew Slotten, chairman, Richland; H. L. Holmes, Pembina; A. F. Appleton, Pembina; P. McHugh, Cavalier; J. L. Colton, Ward; Harvey Harris, Burleigh; A. S. Parsons, Morton; C. V. Brown, Wells; L. D. Bartlett Dickey; A. Sandager, Ransom; John Shuman, Sargent; H. F. Miller, Cass; H. M. Peterson, Cass; W. J. Clapp, Cass; J. Wellwood, Barnes; Andrew Blewett, Stutsman; E. S. Rolfe, Benson; E. D. Wallace, Steele; Knud Nomland, Traill; William Budge, Grand Forks; J. H. Mathews, Grand Forks; M. N. Johnson, Nelson; Edward Lohnes, Ramsey; James Bell, Walsh; John Almen, Walsh.

*Revenue and Taration*—J. L. Colton, chairman, Ward; W. S. Lauder, Richland; M. F. Hegge, Traill; E. D. Wallace, Steele; Enos Gray, Cass; Harvey Harris, Burleigh; W. B. Best, Pembina; A. D. Robertson, Walsh; J. McBride, Cavalier; E. M. Paulson, Traill; S. H. Moer, LaMoure; H. M. Peterson, Cass; Joseph Powles, Cavalier; David Bartlett, Griggs; A. O. Whipple, Ramsey.

*Municipal Corporations*—Richard Bennett, chairman, Grand Forks; J. Lowell, Cass; J. F. O'Brien, Ramsey; C. P. Parsons, Rolette; A. D. Flemington, Dickey; John Powers, Sargent; Addison Leach, Cass; J. F. Selby, Traill; P. McHugh, Cavalier.

*Corporations Other than Municipal*—M. N. Johnson, chairman, Nelson; W. E. Purcell, Richland; E. D. Wallace, Steele; Jacob Lowell, Cass; L. D. Bartlett, Dickey; S. H. Moer, LaMoure; James Bell, Walsh; J. L. Colton, Ward; A. S. Parsons, Morton.

*Miscellaneous Subjects*—W. E. Purcell, chairman, Richland; J. E. Carland, Burleigh; A. W. Hoyt, Morton; C. V. Brown, Wells; E. W. Chaffee, Cass; A. P. Haugen, Grand Forks; M. K. Marrinan, Walsh.

*Schedule*—W. S. Lauder, chairman, Richland; H. F. Miller, Cass; J. B. Gayton, Emmons; John Almen, Walsh; V. B. Noble, Bottineau; E. A. Williams, Burleigh; J. D. McKenzie, Sargent.

*School and Public Lands*—H. M. Clark, Eddy; B. F. Spalding, Cass; T. W. Bean, Nelson; William Budge, Grand Forks; W. B. Best, Pembina; William Ray, Stark; J. A. Douglas, Walsh; R. B. Richardson, Pembina; Addison Leach, Cass; A. D. Robertson, Walsh; J. D. McKenzie, Sargent; Roger Allin, Walsh; L. D. Bartlett, Dickey.

*Temperance*—A. P. Haugen, Chairman, Grand Forks; L. D. Bartlett, Dickey; R. M. Pollock, Cass; A. Blewett, Stutsman; Ezra Turner, Bottineau.

*Revision and Adjustment*—David Bartlett, chairman, Griggs; O. G. Meacham, Foster; J. E. Carland, Burleigh; E. W. Camp, Stutsman; V. B. Noble, Bottineau.

*Impeachment and Removal from Office*—Ezra Turner, chairman, Bottineau; M. V. Linwell, Nelson; R. B. Richardson, Pembina; E. W. Paulson, Traill; A. D. Flemington, Dickey; C. V. Brown, Wells, J. F. O'Brien, Ramsey.

Mr. Carland moved that the secretary be instructed to have the omnibus bill, the rules of the convention and the standing committees of the convention printed in pamphlet form and placed on the desks of members.

Which motion prevailed.

Mr. Williams moved that Gov. Mellette be invited to address the convention and that Messrs. Robertson, Stevens and Moer be appointed a committee to extend the invitation to the governor.

Which motion prevailed.

Mr. Selby moved that the territorial officers be requested to accompany the governor.

Which motion prevailed.

The President appointed Mr. Lauder as a committee to extend the invitation.

The president introduced Governor Mellette, who addressed the Convention.

The Convention then took an informal recess.

Mr. Wallace moved that a committee of three be appointed by the President to ascertain what rooms are needed for convention use, where and on what terms they can be obtained, and whether the costs of such rooms as may be hired, if any, will be paid out of the congressional appropriation.

Which motion prevailed, and

The President appointed as such committee Messrs. Wallace, Harris and Leach.

Mr. Purcell introduced the following resolution and moved its adoption:

*Resolved*, That the delegates appointed by this Convention to form a part of the joint commission to settle and adjust the indebtedness and divide the property, be also empowered to settle and adjust the boundary line between North and South Dakota, and that the line so fixed by the commission be the dividing line between said states until changed by the legislatures thereof.

Which resolution was made a special order for to-morrow.

Mr. Allen moved that Rev. R. C. Wiley be invited to address the Convention.

Which motion prevailed.

Mr. Wiley then addressed the Convention.

Mr. Williams moved that the Convention adjourn.

Which motion prevailed and the Convention adjourned.

J. G. HAMILTON,  
Chief Clerk.

BISMARCK, July 12, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

The President presiding.

Prayer was offered by the Chaplain.

The roll was called, all members being present except Messrs. Bennett, Lohnes, Lowell, Marrinan, Parsons of Morton, and Whipple, who were excused.

The minutes of the preceding session were read and approved.

The Convention proceeded to the consideration of the order of the day, being the consideration of the resolution of Mr. Purcell, empowering the joint commission to settle and adjust the boundary line between North and South Dakota, and that the line so fixed by the commission be the dividing line between said states until changed by the legislatures thereof.

Mr. Purcell moved the following as a substitute therefor:

*Resolved*, That the delegates appointed by this Convention to form a part of the joint commission to settle and adjust the indebtedness and divide the property, be also empowered to temporarily settle and fix what shall be the 7th standard parallel until such time as the true line shall be ascertained.

Which substitute was adopted.

Mr. Johnson introduced the following as a proposed article of the Constitution, which was read the first and second times and referred to the Committee on Corporations, other than municipal:

ARTICLE — Common carriers shall convey all troops of the state militia when on duty, and all officers of the military, executive, legislative and judicial departments of the state government when traveling on official business, at a uniform rate of not to exceed one cent per mile, to be paid out of the state treasury as provided by law.

Mr. Griggs introduced the following as a proposed article of the Constitution, which was read the first time:

COUNTIES.

SECTION 1. The several counties of the territory of Dakota, lying north of the 7th standard parallel, as they now exist, are hereby declared to be counties of the state of North Dakota.

SECTION 2. No new county shall be established which shall reduce any county to less than four hundred square miles, or to less than two thousand inhabitants, nor shall any county be formed of less area, or containing a less population.

SECTION 3. No county shall be divided, or have any part stricken therefrom, without first submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county voting on the question shall vote for the same.

SECTION 4. There shall be no territory stricken from any organized county unless a majority of the voters living in such territory shall petition for such division, and no territory shall be added to any organized county, unless a majority of the voters living in such county shall vote therefor, but the portion so stricken off and added to another county, or formed in whole or in part into a new county shall be holden for, and obliged to pay its proportion of the indebtedness of the counties from which it has been taken.

SECTION 5. The legislative assembly shall have no power to remove the county seat of any county, but the removal of county seats shall be provided for by general law, and no county seat shall be removed, unless two-thirds of the qualified electors of the county, voting on the proposition at a general election, vote therefor, and no such proposition shall be submitted oftener than once in four years, and no person shall vote on such proposition, who shall not have resided in the county six months, and in the election precinct ninety days next preceeding such election.

Mr. Moer moved that the article be read the second time by its title.

Which motion prevailed, and

The article was read the second time by its title, and referred to the Committee on County and Township Organization.

Mr. Scott offered the following resolution:

*Resolved*, That the Committee on Printing be instructed to arrange, upon the most favorable terms, for the printing of the Daily Journal of the Convention—500 copies of the Journals to be bound at the end of the session for distribution among the members and for exchange with other state and territorial libraries, and not less than 300 copies daily to be furnished for the immediate use of the members, either in pamphlet or newspaper form, as the committee may deem best and the Convention may approve.

Mr. Williams moved the adoption of the resolution.

Which motion prevailed.

Mr. Moer offered the following resolution and moved its adoption:

WHEREAS, The road-bed and rolling stock of the Northern Pacific railroad is at present by virtue of its charter, exempt from taxation in this territory, and whereas, it is important and necessary for this Convention to determine whether or not said road bed and rolling stock can be made subject to taxation under the Constitution about to be formed, and whereas, great differences of opinion exist as to the power of this Convention in the premises. Now therefore, be it

*Resolved*, That the said matter of the power of this Convention to provide for the taxation of said property be referred to the Judiciary Com-



mittee for their opinion thereon and that said committee be and are hereby instructed to report thereon within one week from this date.

Which resolution was adopted.

Mr. Stevens moved that the Journal, in addition to all resolutions, shall contain all articles proposed to be incorporated in the Constitution.

Which motion prevailed.

Mr. Scott offered the following resolution and moved that it be referred to the Judiciary Committee.

*Resolved*, That no judge of any court established under this Constitution, shall, after the adoption thereof, be allowed to draw or receive any salary unless he shall take and subscribe an affidavit before an officer entitled to administer oaths, that no cause in his court remains undecided, that has been submitted for decision for the period of ninety days.

Which motion prevailed.

Mr. Richardson moved that this Convention do order that all county officers now holding office in the proposed State of North Dakota remain in office and draw their salary until the end of the term for which they were elected, and that their bonds hold good for the same period.

Mr. Scott moved that it be referred to the Committee on Schedule.

Mr. Rolfe moved as an amendment that it be referred to the Committee on County and Township Organization.

Which amendment was lost, and the original motion prevailed.

#### REPORTS OF SPECIAL COMMITTEES.

MR. PRESIDENT:

Your committee to whom was submitted the matter of committee rooms respectfully submit the following report: There are to be had five rooms in the capitol building, viz.: The offices of the Attorney General, Committee of Immigration, Railroad Commission, Council room and one room off the Council room. There are six rooms in the First National Bank block which can be had for one month for the sum of \$90.00; a janitor will be furnished to take care of the rooms. The rooms are unfurnished, except one which has a desk and some chairs, and one which has a desk. The opinion of the Territorial Secretary is that the congressional appropriation does not cover the expense that may attend the renting of rooms away from the capitol building.

E. D. WALLACE,  
HARVEY HARRIS,  
ADDISON LEECH.

Mr. Blewett moved that the report be received and placed on file.

Which motion prevailed.

Mr. Miller was excused from attendance on July 13th.

Mr. Carland moved to adjourn.

Which motion prevailed, and the Convention adjourned.

J. G. HAMILTON,  
Chief Clerk.

SATURDAY, July 13, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

The President presiding.

Prayer was offered by the Chaplain.

The roll was called, all members being present except Messrs Bennett, Budge, Griggs, Lowell, McHugh, Miller, Scott and Whipple, who were excused.

Mr. Purcell moved that the privileges of the floor be extended to the Commission from South Dakota.

Which motion prevailed.

Mr. Stevens introduced the following resolution, and moved its adoption.

*Resolved*, That all matter to be incorporated in the Constitution shall be first introduced in the Convention by resolution, be read a first time and on second reading shall be referred to the appropriate committee without debate, and no matter shall be incorporated in the Constitution until the subject to which it relates shall have first been considered and reported upon by the Committee of the Whole. Each article or resolution so introduced shall be printed, giving its consecutive number of introduction, and a copy thereof furnished to each member before its second reading.

Mr. Harris moved to amend by striking out the words "by resolution," and to add at the close thereof the words "providing that nothing in this resolution shall prevent the introduction of original matter by any standing committee.

Mr. Spalding moved that the resolution be made a special order for Monday, at 3 o'clock p. m.

Which motion prevailed.

Mr. Stevens moved that the Committee on Printing ascertain the probable cost of printing, if the provisions of the resolution are carried out.

Which motion was lost.

Mr. Lauder offered the following resolution and moved its adoption:

*Resolved*, That a select committee of five be appointed by the President to whom shall be referred all questions relating to the seat of government.

Mr. Moer moved that the further consideration of the resolution be indefinitely postponed.

Which motion prevailed.

The Committee on printing submitted the following report:

MR. PRESIDENT:

Your committee to whom was submitted the matter of printing the daily Journal of the Convention, 500 copies to be bound at the end of the session for distribution among the members and for exchange with other state and territorial libraries, and not less than 300 copies daily to be furnished for the immediate use of the members, either in pamphlet or newspaper form, submit the following terms given by the TRIBUNE of Bismarck, N. D: Composition 75c per 1000 ems; press work 60c per 240 impressions; binding, paper, etc., at regular commercial rates as now paid by the Government for similar work; \$3.50 per one hundred copies of daily Journal in pamphlet form, \$3 newspaper form. Your committee also recommend that in addition to the daily Journal there be printed in pamphlet form for the use of members 240 copies of each article introduced by the members of this Convention and that the same be printed after first reading. We recommend the acceptance of the TRIBUNE's proposition and that the Journals be printed in pamphlet form.

ROGER ALLIN,  
Chairman.

Mr. Stevens moved that the report of the committee on printing be adopted.

Which motion prevailed.

#### INTRODUCTION OF ARTICLES.

Mr. Johnson introduced File No. 3—

#### COMPACT WITH THE UNITED STATES.

The following article shall be irrevocable without the consent of the United States and the people of this state.

SECTION 1. Perfect toleration of religious sentiment shall be secured, and no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship.

SEC. 2. The people inhabiting this state do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries of this state, and to all lands lying within said limits owned or held by any Indian or Indian tribes; and until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States. Lands belonging to citizens of the United States, residing without this state, shall never be taxed at a higher rate than lands belonging to residents of this state. No taxes shall ever be imposed by this state on lands or property herein belonging to, or which may hereafter be purchased by, the United States or reserved for its use. But nothing herein contained shall preclude this state from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of congress containing a provision exempting such lands from taxation, and such lands shall be exempt from taxation by this state so long and to such extent as such act of congress may prescribe.

SEC. 3. The debts and liabilities incurred by the Territory of Dakota previous to the adoption of this Constitution, shall be assumed and paid by this

state in such proportion as shall be agreed upon by a joint commission composed of members of the Constitutional Conventions of North Dakota and South Dakota, respectively, as set forth in Article — of this Constitution.

SEC. 4. There shall be established and maintained a system of public schools in this state which shall be open to all the children of this state and free from sectarian control.

Which was read the first time.

Also File No. 4—

#### CORPORATIONS.

SECTION 1. No corporation shall be created or have its charter extended, changed or amended by special laws except those for charitable, educational, penal or reformatory purposes, which are to be and remain under the patronage and control of the state; but the Legislature shall provide by general laws for the organization of all corporations hereafter to be created.

SEC. 2. All existing charters, or grants of special or inclusive privileges, under which a bona fide organization shall not have taken place and business been commenced in good faith at the time this Constitution takes effect, shall thereafter have no validity.

SEC. 3. The Legislature shall not remit the forfeiture of the charter to any corporation now existing, nor alter or amend the same, nor pass any other general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution.

SEC. 4. The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the Legislature from taking the property and franchises of incorporated companies and subjecting them to public use, the same as the property of individuals; and the exercise of the police power of the State shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well-being of the State.

SEC. 5. In all elections for directors or managers of a corporation, each member or shareholder may cast the whole number of his votes for one candidate or distribute them upon two or more candidates, as he may prefer.

SEC. 6. No foreign corporation shall do any business in this State without having one or more places of business and an authorized agent or agents in the same upon whom process may be served.

SEC. 7. No corporation shall engage in any business other than that expressly authorized in its charter, nor shall it take or hold any real estate except such as may be necessary and proper for its legitimate business.

SEC. 8. No corporation shall issue stocks or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and indebtedness of corporations shall not be increased except in pursuance of general law nor without the consent of the persons holding the larger amount in value of the stock first obtained at a meeting to be held after sixty days' notice given in pursuance of law.

SEC. 9. The legislature shall have the power to alter, revise or annul any charter of any corporation now existing and revokable at the taking effect of this constitution, or any that may be created whenever in their opinion it may be injurious to the citizens of the state; in such a manner, however, that no injustice shall be done to the incorporators. No law hereafter enacted shall create, renew or extend the charter of more than one corporation.

SEC. 10. No law shall be passed by the legislature granting the right to construct and operate a street railroad within any city, town or incorporated village, without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied by such street railroad.

SEC. 11. No president, director, officer, agent or employe of any railroad company shall be personally interested, directly or indirectly, in the furnishing of material or supplies for such company in any contract with such company for construction, or in the business of transportation as a common carrier of

freight or passengers over the works owned, leased, controlled or worked by such company.

SEC. 12. Every railroad corporation organized or doing business in this state, under the laws or authority thereof, shall have and maintain a public office or place in this state for the transaction of its business, where transfers of its stock shall be made and in which shall be kept for public inspection, books in which shall be recorded the amount of capital stock subscribed, and by whom the names of the owners of its stock and the amount owned by them respectively; the amount of stock paid in and by whom, the transfers of said stock; the amount of its assets and liabilities and the names and place of residence of its officers. The directors of every railroad corporation shall annually make a report, under oath, to the auditor of public accounts, or some officer or officers to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law, and the Legislature shall pass laws enforcing by suitable penalties the provisions of this section.

SEC. 13. The rolling stock and all other movable property belonging to any railroad company or corporation in this state, shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals, and the legislature shall pass no laws exempting such property from execution and sale.

SEC. 14. No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given at least sixty days to all stockholders, in such manner as may be provided by law. Any attempt to evade the provisions of this section, by any railroad corporation, by lease or otherwise, shall work a forfeiture of its charter.

SEC. 15. Railways heretofore constructed or that may hereafter be constructed in this state are hereby declared public highways, and all railroad and transportation companies are declared to be common carriers and subject to Legislative control; and the Legislature shall have power to enact laws regulating and controlling the rates of charges for the transportation of passengers and freight, as such common carriers from one point to another in this state.

SEC. 16. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points within this state, and to connect at the state line with the railroads of other states. Every railroad company shall have the right with its road to intersect, connect with or cross any other railroad; and shall receive and transport each others passengers, tonnage and cars, loaded or empty, without delay or discrimination.

SEC. 17. The Legislature shall pass laws to correct abuses and prevent discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this state, and enforce such laws by adequate penalties, to the extent, if necessary for that purpose, of forfeiture of their property and franchises.

SEC. 18. Municipal and other corporations and individuals invested with the privilege of taking private property for public use shall make just compensation for property taken, injured or destroyed by the construction or enlargement of their works, highways or improvements, which compensation shall be paid or secured before such taking, injury or destruction. The Legislature is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages against any such corporations or individuals, made by viewers or otherwise; and the amount of such damages in all cases or appeal shall on the demand of either party, be determined by a jury as in other civil cases.

SEC. 19. The term "corporations" as used in this article, shall be construed to include all joint stock companies or associations having any of the powers or privileges of corporations not possessed by individuals or partnerships.

Which was read the first time.

Mr. Flemington introduced File No. 5—

No person, association or corporation shall manufacture, or aid in the manufacture for sale, any intoxicating liquor, and no person, association or corporation shall sell or keep for sale as a beverage any intoxicating liquor.

The Legislature shall by law prescribe regulations for the enforcement of the provisions of this section, and provide suitable and adequate penalties for the violation thereof.

Which was read the first time.

Mr. Parsons, of Rolette, introduced File No. 6—

SECTION 1. The General Assembly shall have no power to change or to locate the seat of government of the State, but shall, at its first session subsequent to the admission of the State, provide by law for submitting the question of the permanent location of the seat of government to the qualified electors of the State at the general election then next ensuing, and a majority of all the votes upon said question cast at said election shall be necessary to determine the location thereof. Said General assembly shall also provide that in case there shall be no choice of location at said election, the question of choice between the two places for which the highest number of votes shall have been cast shall be submitted in like manner to the qualified electors of the State at the next general election; *Provided*, That until the seat of government shall have been permanently located as herein provided, the temporary location thereof shall be at the city of Bismarck.

SEC. 2. When the seat of government shall have been located as herein provided, the location thereof shall not thereafter be changed except by a vote of two-thirds of all the qualified electors of the state voting on that question at a general election at which the question of location of the seat of government shall have been submitted by the General Assembly.

SEC. 3. The General Assembly shall make no appropriation or expenditure for capitol buildings or grounds until the seat of government shall have been permanently located as herein provided.

Which was read the first time.

Mr. Rowe introduced File No. 7—

No intoxicating liquors shall be manufactured, nor shall any intoxicating liquors be given away, exchanged or sold as a beverage. The Legislature shall by law prescribe suitable regulations and penalties for the enforcement of the provisions of this section.

Which was read the first time.

Mr. Camp introduced File No. 8—

SECTION 1. The Governor, the Attorney-General, and the judges of the Supreme Court shall constitute a board of pardons, in which shall be vested the sole power to remit fines and forfeitures, grant reprieves, commutations of sentence and pardons. The meetings of said board shall be held at the capitol, shall be called by the governor, and not less than ten days public notice thereof shall be given. Two-thirds of the members of said board shall be a quorum for the transaction of business. A record of the proceedings of said board shall be kept. No fine or forfeiture shall be remitted, no reprieve, commutation of sentence or pardon granted unless two-thirds of all the members of said board shall vote for such remission, reprieve, commutation or pardon; and the voting shall be by ballot.

Which was read the first time.

Mr. Haugen introduced File No. 9 (to be submitted as a separate proposition)—

PROHIBITION.

No person or corporation shall manufacture, or aid in the manufacture for sale, any intoxicating liquor; no person shall sell or keep for sale as a beverage

any intoxicating liquor. The Legislature shall by law prescribe regulations for the enforcement of the provisions of this section and provide suitable and adequate penalties for the violation thereof.

Which was read the first time.

Mr. Clark introduced File No. 10—

WHEREAS, The present method of referring questions in dispute to our courts for settlement is both tedious and expensive; therefore be it

*Resolved*, That this Convention shall make it the duty of the General Assembly to establish courts of arbitration whereby differences may be settled without submitting them to trial by jury, except as a last resort.

Which was read the first time.

Mr. Rolfe introduced File No. 11—

SECTION 1. All taxes to be raised in this state shall be uniform on all real and personal property, to be ascertained by such rules of appraisal and assessment as may be prescribed by the legislature by general law, and uniform as to the time when the same shall become assessable so that every person or corporation shall pay a tax in proportion to the value of his, her, or its property; and if the Legislature shall, in its laws pertaining to the assessment of real and personal property, provide for any deduction to any person or corporation by reason of any bona fide indebtedness of such person or corporation existing at the time of such assessment, such deduction shall be made from the total assessment to such individual or corporation.

Which was read the first time.

Mr. Spalding introduced File No. 12—

PREAMBLE.

We, the representatives of the people of North Dakota, in convention assembled at the city of Bismarck, on the Fourth day of July, A. D., 1889, pursuant to an act of Congress entitled "An Act to Provide for the Division of Dakota into Two States, and to Enable the People of North Dakota, South Dakota, Montana and Washington to Form Constitutions and State Governments, and to be Admitted into the Union on an Equal Footing with the Original States, and to Make Donations of Public Lands to Such States," approved February 22d, 1889, do ordain and establish this Constitution.

Which was read the first time.

Mr. Gray introduced File No. 13--

MINORITY REPRESENTATIVES.

SECTION 1. The House of Representatives shall consist of three times the number of the members of the Senate, and the term of office shall be two years. Three representatives shall be elected in each senatorial district at the first general election held after this constitution takes effect, and every two years thereafter.

SEC. 2. In all elections of representatives aforesaid, each qualified voter may cast as many votes for one candidate as there are representatives to be elected, or may distribute the same, or equal parts thereof, among the candidates as he shall see fit, and the candidates highest in votes shall be declared elected.

Which was read the first time.

Mr. Pollock introduced File No. 14 (to be submitted to a separate vote with the Constitution, a part of which it shall become if carried.)

No person or corporation shall manufacture, or aid in the manufacture, for sale any intoxicating liquor; no person shall sell or keep for sale as a beverage any intoxicating liquor. The Legislature shall by law prescribe regulations for the enforcement of the provisions of this section, and provide suitable and adequate penalties for the violation thereof.

Which was read the first time.

Mr. Bean introduced File No. 15—

#### COUNTY SEATS.

SEC. 1. In counties already organized, where the county seat has not been located by a majority vote, it shall be the duty of the county board to submit the location of the county seat to the electors of said county at the first general election held after the admission of the state of North Dakota into the Union. The place receiving a majority of all the votes cast at said election shall be the county seat of said county. If no place receive a majority of all the votes cast at said election it shall be the duty of the county board to re-submit the location of the county seat to the electors of said county at the next general election. The electors at said election may vote for one of the two places receiving the highest number of votes at the preceding election. The place receiving the majority of all the votes cast for county seat at said second election shall be the county seat.

SEC. 2. Whenever a majority of all the legal voters of any organized county shall petition the county board to change the location of the county seat which has once been located by a majority vote, specifying the place to which it is to be changed, said county board shall submit the same to the people of said county at the next general election. If the proposition to change the county seat be ratified by two-fifths of all the votes cast for county seat at said election, then the county seat shall be changed. A proposition to change the county seat of any county shall not be submitted more often than once in six years.

SEC. 3. No person shall vote on the location of any county seat who shall not have resided in the county six months, and in the precinct ninety days next preceding said election.

Which was read the first time.

Mr. Bartlett, of Griggs, introduced File No. 16—

The legislative power shall be vested in the Legislature, which shall consist of a Senate and House of Representatives, both to be elected by the people. The Senate shall be composed of one member from each organized county in the state. The House of Representatives shall have not less than seventy-five nor more than one hundred and fifty members, apportioned upon a basis of population as provided by law.

Which was read the first time.

Also File No. 17—

All ballots shall be printed on plain white paper, without any distinguishing mark or sign, except the name of the party or political organization at the top. The name of no person shall be printed, or stamped, upon any ballot, unless such person be the regular nominee of the political party or organization named on the top of said ballot. Any ballot cast or voted containing the name of any person so wrongfully upon said ballot, shall be considered as fraudulently voted, and shall not be counted for the person whose name is so inserted.

Which was read the first time.

Mr. Camp introduced File No. 18—

No act shall embrace more than one subject, which shall be clearly expressed in its title.

Which was read the first time.



Mr. Bartlett of Dickey, introduced File No. 19—

The Legislature shall make provision in conformity with this constitution for ascertaining the qualifications of those desiring places or employment in the public service, but shall not establish any religious or political test for office or public employment.

Which was read the first time.

Mr. Selby introduced the following resolutions:

*Resolved*, That the compensation of the official stenographer of this Convention for reporting the debates and proceedings in full, be, and the same is hereby, fixed at eight dollars per diem during the session thereof. Said official stenographer shall also furnish to the Convention, a transcribed, fairly written and legible printer's copy of said debates and proceedings, for which he shall receive an additional compensation of ten cents per folio; the compensation hereby provided, including the cost of all stationary and other material used by said stenographer in making said stenographic report and transcribing the same. And said official stenographer is hereby made responsible for the proper execution of said work.

*Resolved*, That no petitions, letters, memorials or remonstrances, responses from any of the departments or other sources, to resolutions of inquiry by the Convention, shall be included in said reporting or transcribed printer's copy, unless by special order of the Convention; nor shall discussions on questions of order or adjournment be included therein.

Mr. Blewett moved that the resolutions be referred to the Committee on Reporting and Publication.

Which motion prevailed.

Mr. Johnson moved that H. B. Sprague, President of the University of North Dakota, be invited to address the Convention.

Which motion prevailed, and

President Sprague addressed the Convention.

Mr. Camp was excused from attendance until Tuesday, July 16.

Mr. Selby moved to adjourn.

Which motion prevailed and

The Convention adjourned.

J. G. HAMILTON,  
Chief Clerk.

BISMARCK, July 15, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

The President presiding.

Prayer was offered by the Chaplain.

The roll was called, all members being present except Messrs. Camp, Griggs, Scott and Whipple, who were excused.

Mr. Parsons, of Morton, moved that that portion of the Journal that is printed in the Files and laid upon the desk of members be omitted from reading.

Which motion prevailed.

The minutes of the preceding session were read and approved.

The President called Mr. McHugh to the chair.

Mr. Parsons of Morton, introduced the following resolution and moved its adoption.

*Resolved*, That 100 copies of Council Bill No. 60, on the Australian ballot system, a copy of which is hereto attached, be printed for distribution to the members, and ask for immediate action.

Which resolution was adopted.

Mr. Miller moved that all articles on their second reading be read by titles only.

Which motion prevailed.

#### INTRODUCTION OF ARTICLES.

Mr. Parsons of Rolette, introduced File No. 20.

SECTION 1. The general assembly at its first session subsequent to the year one thousand, eight hundred and eighty-nine, and every ten years thereafter, shall apportion the state into senatorial and representative districts which shall be independent, one of the other, and formed of contiguous and compact territory, bounded by county lines.

SEC. 2. The ratio of representation shall be found by dividing the population of the state, as ascertained by the federal census, by the number of senatorial districts, for the ratio of representation in the senate, and by the number of representative districts for the ratio of representation in the house, of which there shall not be less than twenty-five nor more than fifty state senators, and not less than seventy-five nor more than 150 members of the house of representatives.

SEC. 3. Every county having a population equal to two-fifths of the ratio shall be entitled to one member of the house or of the senate, as the case may be.

SEC. 4. Counties having a less population than two-fifths of the ratio, shall be attached to the adjoining county, and the two or more counties thus adjoined shall constitute a district.

SEC. 5. Until the state is apportioned as herein provided, the senatorial and representative districts shall be formed, and the senators and representatives shall be apportioned as follows:

#### SENATORIAL DISTRICTS.

- District No. 1—Pembina county, and entitled to two senators.
- District No. 2—Cavalier county, and entitled to one senator.
- District No. 3—Walsh county, and entitled to two senators.
- District No. 4—Ramsey county, and entitled to one senator.
- District No. 5—Towner and Benson counties, and entitled to one senator.
- District No. 6—Rolette and Pierce counties, and entitled to one senator.
- District No. 7—Bottineau and Renville (unorganized) counties, and entitled to one senator.
- District No. 8—McHenry, Church and Sheridan (unorganized) counties, and entitled to one senator.
- District No. 9—Ward, Mountraille (unorganized), Flannery (unorganized), Buford, Stevens, Garfield and McLean counties, and entitled to one senator.
- District No. 10—Stark, Hettinger, Bowman, Billings, Dunn, McKenzie, Wallace and Allred counties, and entitled to one senator.
- District No. 11—Morton, Oliver and Mercer counties, and entitled to one senator.
- District No. 12—Burleigh county, and entitled to one senator.
- District No. 13—Kidder and Wells counties, and entitled to one senator.
- District No. 14—Eddy and Foster counties, and entitled to one senator.
- District No. 15—Stutsman county, and entitled to one senator.
- District No. 16—Nelson county, and entitled to one senator.
- District No. 17—Grand Forks county, and entitled to three senators.
- District No. 18—Griggs county, and entitled to one senator.
- District No. 19—Steele county, and entitled to one senator.
- District No. 20—Traill county, and entitled to two senators.
- District No. 21—Cass county, and entitled to three senators.
- District No. 22—Barnes county, and entitled to one senator.
- District No. 23—Richland county, and entitled to one senator.
- District No. 24—Ransom county, and entitled to one senator.
- District No. 25—Sargent county, and entitled to one senator.
- District No. 26—Dickey county, and entitled to one senator.
- District No. 27—LaMoure county, and entitled to one senator.
- District No. 28—Emmons, Logan and McIntosh counties, and entitled to one senator.

#### LEGISLATIVE DISTRICTS.

- District No. 1—Pembina county, and entitled to five members.
- District No. 2—Cavalier county, and entitled to two members.
- District No. 3—Walsh county, and entitled to six members.
- District No. 4—Ramsey county, and entitled to two members.
- District No. 5—Towner county, and entitled to one member.
- District No. 6—Rolette county, and entitled to one member.
- District No. 7—Bottineau and Renville (unorganized) counties, and entitled to one member.
- District No. 8—Ward, (Mountraille, Flannery, Buford, unorganized) counties, and entitled to one member.
- District No. 9—McHenry county, and entitled to one member.
- District No. 10—Church and Pierce counties, and entitled to one member.
- District No. 11—McLean, Stevens, Garfield, unorganized, counties and entitled to one member.
- District No. 12—Benson county, and entitled to one member.
- District No. 13—Wells, Sheridan (unorganized) counties, and entitled to one member.

- District No. 14—Foster county, and entitled to one member.  
 District No. 15—Eddy county, and entitled to one member.  
 District No. 16—Nelson county, and entitled to two members.  
 District No. 17—Grand Forks county, and entitled to seven members.  
 District No. 18—Traill county, and entitled to four members.  
 District No. 19—Steele county, and entitled to one member.  
 District No. 20—Griggs county, and entitled to one member.  
 District No. 21—Cass county, and entitled to eight members.  
 District No. 22—Barnes county, and entitled to three members.  
 District No. 23—Stutsman county, and entitled to three members.  
 District No. 24—Kidder county and entitled to one member.  
 District No. 25—Burleigh county, and entitled to two members.  
 District No. 26—Morton county, and entitled to two members.  
 District No. 27—Stark, Billings, Bowman and Hettinger counties, and entitled to one member.  
 District No. 28—Mercer, Oliver, Williams, Dunn, McKenzie, Wallace and Allred counties, and entitled to one member.  
 District No. 29—Emmons county, and entitled to one member.  
 District No. 30—McIntosh and Logan counties, and entitled to one member.  
 District No. 31—LaMoure county, and entitled to one member.  
 District No. 32—Dickey county, and entitled to two members.  
 District No. 33—Ramson county, and entitled to two members.  
 District No. 34—Richland county, and entitled to three members.  
 District No. 35—Sargent county, and entitled to two members.

Which was read the first time.

Mr. Wallace introduced File No. 21.

No money shall be paid out of the treasury except upon appropriation by law and on warrant drawn by the proper officer, and no bills, claims, accounts or demands against the State shall be audited, allowed or paid until a full itemized statement thereof in writing shall be filed with the proper officer or officers whose duty it may be to audit same.

Which was read the first time.

Also File No. 22—

The circuit courts shall have original jurisdiction of all actions and causes both at law and in equity and such appellate jurisdiction as may be conferred by law and be consistent with this Constitution. Such jurisdiction as to value and amount and grade of offense may be limited by law but no appeal shall lie from any court to such circuit courts involving less than fifty dollars in amount, except in cases where the title to real estate or personal liberty shall be in issue. They and the judges thereof shall also have jurisdiction and power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, injunction and other original and remedial writs, with authority to hear and determine the same.

Which was read the first time.

Also File No. 23—

A mortgage, deed of trust, contract or other obligation by which a debt is secured shall, for the purposes of assessment and taxation, be deemed and treated as an interest in the property affected thereby.

In case of debt so secured, the value of the property affected by such mortgage, deed of trust, contract or obligation, less the value of such security, shall be assessed and taxed to the owner of the property, and the value of such security shall be assessed and taxed to the owner thereof, in the county, city or district in which the property affected thereby is situate. The taxes so levied shall be a lien upon the property and security, and may be paid by either party to such security; if paid by the owner of such security, the tax so levied

upon the property affected thereby shall become a part of the debt so secured; if the owner of the property shall pay the tax so levied on such security, it shall constitute a payment thereon, and to the extent of such payment a full discharge thereof; *provided*, that if any such security or indebtedness shall be paid by any such debtor or debtors after assessment and before the tax levy, the amount of such levy may likewise be retained by such debtor or debtors, and shall be computed according to the tax levy for the preceding year.

Every contract hereafter made by which a debtor is obligated to pay any tax or assessment on money loaned or on any mortgage, deed of trust, or other lien, shall, as to any interest specified therein, and as to such tax or assessment, be null and void.

Which was read the first time.

Also File No. 24.—

#### PROHIBITION.

No person or corporation shall manufacture, or aid in the manufacture for sale, any intoxicating liquor; no person shall sell or keep for sale as a beverage any intoxicating liquor. The Legislature shall by law prescribe regulations for the enforcement of the provisions of this section and provide suitable and adequate penalties for the violation thereof.

Which was read the first time.

Mr. Stevens introduced File No. 25—

*Resolved*, That the Constitution provide that the legislative authority of this state shall rest in a single body, to be called the "Legislative Assembly," which shall consist of not less than one hundred members, to be elected by the people; *provided*, the Legislative Assembly may from time to time increase the number of members, as necessity may require.

Which was read the first time.

Mr. Elliott introduced File No. 26—

No law shall be passed except by bill, and no act shall contain more than one subject which shall be expressed in the title. But if any subject be embraced in an act which shall not be expressed in its title, such act shall be void only, as to so much thereof as shall not be expressed in its title.

Which was read the first time.

Also File No. 27—

Be it ordained by this Constitutional Convention: That the following proposition be and the same is hereby submitted to the voters of all of that portion of Dakota to be known as the State of North Dakota, to be voted upon by said electors at the general election, to be held in the several election precincts in all of the counties embraced within the boundary of the said State of North Dakota, in the month of October, 1889, as provided for by the Springer bill and the acts of the Congress of the United States in reference thereto, and that if a majority of all of the votes cast at said election, for or against said proposition, be in the affirmative, then this proposition shall be and become a part and portion of the Constitution of the State of North Dakota, when the Constitution of said State of North Dakota shall have been accepted by the President of the United States of North America, and such proposition shall become as operative as any other part or portion of the state Constitution prepared and submitted by this Constitutional Convention.

Which proposition shall be in word and form as follows, to-wit.

The manufacture of any kind of intoxicating liquors or beverages, including beer and ale; or the importation of the same for the purpose of sale, or the keeping of the same for sale, or the offering for sale, barter, trade, or to be

given away in any manner, either unadulterated or mixed or unmixed with any other material, shall be forever prohibited within the State of North Dakota, except for medical, scientific and mechanical purposes. Which last exception shall be regulated by stringent state laws, and the first State Legislature (at its first session) for North Dakota, shall enact such laws as will effectually force obedience to all of this portion of the State Constitution.

And any person or persons who may import for sale, or manufacture for sale, or keep for sale, or offer for sale or for trade, barter, or give away in any form or manner, any kind of intoxicating liquors or beverages contrary to any portion of the State Constitution shall be deemed guilty of felony, and upon conviction of such offense shall be punished as in other cases of felony.

Which was read the first time.

Also File No. 28---

The using of public moneys for profit or for any purpose not authorized by law, by any member of the legislature, or any state, county or city official shall be a misdemeanor and shall be punished as may be provided by law.

Which was read the first time.

Mr. Parsons of Morton, introduced File No. 29—

SECTION 1. Every male person of the age of twenty-one years or upward belonging to either of the following classes, who shall have resided in the state one year, in the county six months and in the precinct thirty days next preceding any election, shall be deemed a qualified elector at such election: 1st, citizens of the United States; 2d, persons of foreign birth who shall have declared their intentions to become citizens conformably to the naturalization laws of the United States; 3d, persons of Indian blood who shall be declared citizens by the laws of the United States; 4th, civilized persons of Indian descent, not members of any tribe.

Which was read the first time.

Mr. Miller introduced File No. 30. (To be submitted to a separate vote with the Constitution, a part of which it shall become if carried)—

No person shall manufacture for sale, or sell or keep for sale, as a beverage, any intoxicating liquor whatever, including ale, wine and beer.

The Legislature shall by law prescribe regulations for the enforcement of the prohibition herein contained, and shall thereby provide suitable penalties for the violation of the provisions hereof.

Which was read the first time.

Mr. Harris introduced File No. 31---

No person elected to the Legislature, during the time for which he has been elected, shall be eligible to any office within this state that is or may be required to be filled by election by the Legislature, or either house thereof, required to be filled by appointment of the Governor, or by appointment of the Governor with the concurrence of the Legislature or either house thereof; or that is or may be filled by the Legislature or either house thereof with the approval of the Governor; and all such appointments, and all votes given for any such member for any such office or appointment shall be void.

Which was read the first time.

Also File No. 32—

#### REVENUE AND TAXATION.

SECTION 1. The Legislature shall provide for raising revenue sufficient to defray the expenses of the state, for each year, and also a sufficient sum to pay the interest on the state debt.

SEC. 2. No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied.

SEC. 3. Laws shall be passed, taxing by a uniform rule, all moneys, credits, investments in bonds, stocks, joint stock companies or otherwise, and all real and personal property according to its true value in money, but the property of the United States and of the state, county and municipal corporations, both real and personal, shall be exempt from taxation, and the Legislature shall, by general law, exempt from taxation property used exclusively for schools, religious, cemetery and charitable purposes, and personal property to any amount not exceeding in value two hundred dollars for each individual liable to taxation.

SEC. 4. No law shall authorize any debt to be contracted on behalf of the state, except in the following cases: To meet casual deficits in the revenue; to pay interest on the state debt; to repel invasion; suppress insurrection, or if hostilities be threatened, provide for the public defense.

SEC. 5. The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the state shall be a party.

Which was read the first time.

Mr. Fay introduced File No. 33—

The Legislature shall, in the year 1895, and every tenth year thereafter, cause an enumeration to be made of all the inhabitants of this state; and they shall then proceed to apportion the representation among the different counties, giving to each county one representative at large, and one additional to every one thousand voters therein, but no county shall be entitled to more than four representatives. The Legislature shall also, after such enumeration, proceed to fix by law the number of senators which shall constitute the senate of North Dakota, and which shall never be less than one-fourth nor more than one-half the whole number of the Legislature.

When any senatorial district shall be composed of two or more counties, such district shall be composed of contiguous counties.

No county shall be divided in forming a district, and all counties shall remain as now organized unless changed in pursuance of law.

Which was read the first time.

Also File No. 34.

SECTION 1. The militia of this state shall consist of all able bodied male persons, residents of the state, between the ages of eighteen and forty-five years, except such persons as now are, or hereafter may be, exempted by the laws of the United States, or of this state.

SEC. 2. All officers of the militia shall be commissioned by the Governor, and may hold their office for such time as the General Assembly may provide.

SEC. 3. The General Assembly, in providing for the organization, equipment and discipline of the militia, shall conform as nearly as practicable to the regulations of the government of the armies of the United States.

SEC. 4. The militia shall in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at muster and elections, and in going to and returning from the same.

SEC. 5. The military records, banners and relics of the state shall be preserved as an enduring memorial of the patriotism and valor of North Dakota, and it shall be the duty of the general assembly to provide by law for the safe keeping of the same.

SEC. 6. No person having conscientious scruples against bearing arms shall be compelled to do militia duty in time of peace: *Provided*, Such person shall pay an equivalent for such exemption.

Which was read the first time.

Also File No. 35—

SECTION 1. Every person having resided in this State one year, in the county ninety days, and in the election district thirty days next preceding any election therein, who was an elector on the first day of July, 1889, or who shall be a male citizen of the United States above the age of twenty-one years, shall be entitled to vote at such election.

SEC. 2. Persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States upon the subject of naturalization, who shall have resided in the State one year, in the county ninety days, and in the election district thirty days, shall be entitled to vote at all elections.

SEC. 3. Electors shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same.

SEC. 4. No elector shall be deemed to have lost his residence in this state by reason of his absence on the business of the United States, or of this state, or in the military or naval service of the United States.

SEC. 5. No soldier, seaman, or marine in the army or navy of the United States shall be deemed a resident of this state in consequence of being stationed therein.

SEC. 6. No person shall be elected or appointed to any office in this state, civil or military, who shall not have resided in this state one year next preceding the election or appointment.

SEC. 7. No person under guardianship, *non compos mentis*, or insane, shall be qualified to vote at any election; nor shall any person convicted of felony be qualified to vote at any election unless restored to civil rights.

SEC. 8. All votes shall be by ballot, under such rules and regulations as the legislature shall prescribe.

Which was read the first time.

Also File No. 36.

AMENDMENTS TO THE CONSTITUTION.

SECTION 1. Any amendment or amendments to this Constitution may be proposed in either house of the General Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment shall be entered on the Journal of each house, with the yeas and nays taken thereon, and referred to the legislature to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice, and if in the general assembly so next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the general assembly to submit such proposed amendment or amendments to the people in such manner and at such time as the general assembly shall provide: and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the general assembly voting thereon, such amendment or amendments shall become a part of the Constitution of this state.

SEC. 2. If two or more amendments shall be substituted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

Which was read the first time.

Also File No. 37—

The General Assembly shall not pass local or special laws in any of the following enumerated cases, that is to say:

- Granting divorces;
- Changing the names of persons or places;



Laying out, opening, altering and working roads or highways; vacating roads, town plats, streets, alleys and public grounds; locating or changing county seats; regulating county and township affairs;

Regulating the practice of courts of justice;

Regulating the jurisdiction of justices of the peace, public magistrates and constables;

Providing for change of venue in civil and criminal cases;

Incorporation of cities, towns or villages, or changing or amending the charter of any town, city or village;

Providing for the election of members of the board of supervisors in townships, incorporated towns or cities;

Summoning and empanelling grand or petit juries.

Providing for the management of the public schools;

Regulating the rate of interest on money;

The opening and conducting of any election, or designating the place of voting;

The sale or mortgage of real estate belonging to minors or others under disability;

The protection of game or fish;

Chartering or licensing ferries or toll bridges;

Remitting fines, penalties or forfeitures;

Changing the law of descent;

Granting to any corporation, association or individual the right to lay down railroad tracks, or amending existing charters for such purpose;

Granting to any corporation, association or individual any special or exclusive privilege, immunity, or franchise whatever;

In all other cases, where a general law can be made applicable, no special law shall be enacted.

Which was read the first time.

Also File No. 38.

#### PREAMBLE.

We, the people of North Dakota, in order to establish justice, insure domestic tranquility, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution.

Which was read the first time.

Mr. Blewett introduced File No. 39---

#### MILITIA.

SECTION 1. The militia of this state shall consist of all able-bodied male citizens between the ages of eighteen and forty-five years, except such persons as now are, or hereafter may be, exempted by the laws of the United States or of this state.

SEC. 2. Persons whose religious tenets or conscientious scruples forbid them to bear arms, shall not be compelled to do so in time of peace, but shall pay an equivalent for personal services.

SEC. 3. The Governor shall appoint the Adjutant General and the other chief officers of the general staff and his own staff, and all officers of the line shall be elected by the persons subject to military duty in their respective districts.

SEC. 4. The Majors General, Brigadiers General, Colonels, or commanders of regiments, battalions or squadrons, shall severally appoint their staff officers, and the Governor shall commission all officers of the line and staff ranking as such.

SEC. 5. The Legislative Assembly in providing for the organization, equipment and discipline of the militia, shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

Which was read the first time.

Mr. Haugen introduced File No. 40—

SECTION 1. All taxes to be raised in this State shall be as nearly equal as may be, and all property upon which taxes are to be levied shall have a cash valuation and be equalized and uniform throughout the state; *Provided*, That for the purpose of arriving at the cash value of property assessable for taxation, the amount of *bona fide* loans and incumbrances upon the property shall be taken and deducted from the gross value of the property, and the actual cash value shall be deemed to be the value, less the amount of such liens or incumbrances.

SEC. 2. That at the time of listing property for taxation, the owner thereof shall furnish the assessor, under such rules as the Legislature shall provide, the amount of incumbrances upon his property, their nature, the date at which they accrued, the date on which they will mature and the name of the owner of the incumbrances, and that said lien or the note, account, bill or demand which said lien secures shall be assessable in the name of the owner and holder of said note, account or lien, and in arriving at the value thereof, the amount of said obligation secured shall be taken and deemed as the actual value of said lien.

Which was read the first time.

Mr. Flemington introduced File No. 41—

No county, city or other municipal corporations shall hereafter become a subscriber to the capital stock of any private corporation or association or make any appropriation or donation to the same, or in any way loan its credit.

Which was read the first time.

Mr. Moer introduced File No. 42—

The General Assembly is expressly prohibited from authorizing or allowing debts or liabilities of any kind to be set off against moneys, credits or other property which may be subject to taxation.

Which was read the first time.

Mr. Robertson introduced File No. 43.

*Resolved*, That the legislature shall have no power to pass laws subordinating one school district organization to another, nor to group school districts by townships, but the legislature shall provide for each and every public school established outside of municipal corporations a separate and independent organization.

Which was read the first time.

Mr. Best introduced File No. 44—

*Resolved*, That property, real and personal, of the state, county and other municipal corporations and cemeteries shall be exempt from taxation. Lots in incorporated cities or towns, or within one mile of the limits of such city or town to the extent of one acre, and lots one mile or more distant from such cities or towns to the extent of five acres, with buildings thereon, may be exempted from taxation when the same are used exclusively for religious worship, for schools, or for purposes purely charitable.

Which was read the first time.

Mr. Richardson introduced File No. 45.

The Legislature shall provide a law that shall make each person or officer of the Legislature or State responsible, or held to show what became of, and for the delivery of any bill or document that may be passed by the Legislature, to its proper place and receive the proper signature without unnecessary delay.

Which was read the first time.

Also File No. 46.

The Legislature shall provide that the assessment of all moneys secured by note or mortgage be made in proportion to its value the same as real or personal property, and that said assessment be taken from the respective county records; and that all taxes arising out of said assessments shall become a lien against said mortgages until paid.

Which was read the first time.

Also File No. 47.

PUBLIC SCHOOLS.

SECTION 1. The Legislature shall not make any law respecting an establishment of religion or prohibiting the free exercise thereof.

SEC. 2. It shall be the duty of the Legislature to establish and maintain a system of free public schools, adequate for the education of all the children in the state, between the ages of six and eighteen years, inclusive, in the common branches of knowledge, and in virtue and christian morality. But no money raised by taxes imposed by law, or any money or other property or credit belonging to any municipal organization, or to the State, shall ever be appropriated, applied or given to the use or purposes of any school institution, corporation or person whereby instructions or training shall be given in the doctrines, tenets, belief, ceremonials, or observances peculiar to any sect, denomination, organization or society, being or claiming to be religious in its character, nor shall such peculiar doctrines, tenets, belief, ceremonials or observances be taught or inculcated in the free public schools.

Which was read the first time.

Also File No. 48—

PREAMBLE.

We, the people of North Dakota, acknowledging Almighty God as the source of all authority, the Lord, (Jesus Christ) as the ruler of nations, and His will as the supreme law to which all human law should conform, do ordain this Constitution.

SECTION 1. The right of all the inhabitants to one day in seven free from common labor for the purpose of rest and worship, shall be forever maintained in the laws of this commonwealth.

SECTION 2. The Legislature shall regulate marriage and divorce by laws not inconsistent with the Christian religion; but divorces shall not be granted by the Legislature.

Which was read the first time.

SECOND READING OF FILES.

File No. 1 was read the second time and referred to the Committee on Corporations other than Municipal.

File No. 2 was read the second time and referred to the Committee on Counties.

File No. 3 was read the second time and referred to the Committee on Judiciary.

File No. 4 was read the second time and referred to the Committee on Corporations other than Municipal.

File No. 5 was read the second time and referred to the Committee on Temperance.

File No. 6 was read the second time and referred to the Committee on public institutions.

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File No. 7 was read the second time and referred to the Committee on Temperance.

File No. 8 was read the second time and referred to the Committee on Judiciary.

File No. 9 was read the second time and referred to the Committee on Temperance.

File No. 10 was read the second time and referred to the Committee on Judiciary.

File No. 11 was read the second time and referred to the Committee on Taxation.

File No. 12 was read the second time and referred to the Committee on Preamble.

File No. 13 was read the second time and referred to the Committee on Elective Franchise.

File No. 14 was read the second time and referred to the Committee on Temperance.

File No. 15 was read the second time and referred to the Committee on Counties.

File No. 16 was read the second time and referred to the Committee on Legislation.

File No. 17 was read the second time and referred to the Committee on Elective Franchise.

File No. 18 was read the second time and referred to the Committee on Judiciary.

File No. 19 was read the second time and referred to the Committee on Legislation.

The Convention proceeded to the consideration of the special order of the day, being the resolution introduced by Mr. Stevens.

Mr. Stevens withdrew the resolution.

Mr. Scott was excused for the day.

Mr. Flemington moved to adjourn.

Which motion prevailed, and the Convention adjourned.

JOHN G. HAMILTON,  
Chief Clerk.

TUESDAY, July 16, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

The President presiding.

Prayer was offered by the Chaplain.

The roll was called, all members being present except Mr. Whipple, excused.

Mr. Miller moved that articles printed as files be omitted from the reading of the Journal.

Which motion prevailed.

The Journal of the preceding session was read and approved.

FIRST READING OF ARTICLES, RESOLUTIONS, ETC.

Mr. Spalding introduced the following resolution and moved its adoption:

*Resolved*, That no proposed articles be received by this Convention unless by unanimous consent, after the close of the session of Monday, July 22; *Provided*, however, that this shall not limit the reports of committees either of matter submitted to or originating with them.

Which resolution was adopted.

Mr. Allin introduced File No. 49—

*Resolved*, That a board of supervisors, consisting of one from each organized township, shall be established in each county in North Dakota, with such powers as shall be prescribed by law.

Which was read the first time.

Mr. Colton introduced File No. 50—

REVENUE AND TAXATION.

SECTION 1. The Lieutenant-Governor, Secretary of State and State Auditor shall constitute a board of assessors, whose duty it shall be to assess each year each railroad in the State of North Dakota, including its road bed, rolling stock and all buildings used for railroad purposes. They shall divide the gross assessment of each railroad company so assessed by the number of miles of road owned and operated by said company in this state, and the result shall constitute the assessment per mile for the road so assessed. Said board shall also ascertain the number of miles of railroad owned and operated by each railroad company in each and every county in this state, and multiply the assessment per mile for said railroad company by the number of miles of road owned and operated by said company in each county of this state. The result shall be the

amount for which said railroad company shall be assessed in said county, and be subject to the same levy as other property in the respective locality where it is situated; *Provided*, however, that said board of assessors shall in no case assess any railroad company less than three thousand dollars (\$3,000) nor more than seven thousand dollars (\$7,000) per mile, and the Legislature shall make necessary laws to enforce the provisions of this article.

Which was read the first time.

Mr. Camp introduced File No. 51 (to be submitted to a separate vote as provided by the schedule and ordinance).

CLAUSE 1. No person shall manufacture or aid in the manufacture of any intoxicating liquors for sale; no person shall sell or keep for sale any intoxicating liquors to be used as a beverage. The Legislature shall by law prescribe regulations for the enforcement of the provisions of this section and provide suitable and adequate penalties for the violation thereof.

CLAUSE 2. The manufacture of intoxicating liquors shall not be prohibited; the sale of intoxicating liquors to be used as a beverage shall not be prohibited. The sale of intoxicating liquors to be drunk on or about the premises where sold may be restricted and regulated by law as to the time and place of sale and the persons to whom such liquors may be sold. No person shall be required to pay for the privilege of manufacturing or selling intoxicating liquors a license fee or fees amounting in the aggregate to more than one thousand dollars per annum, for each place of business where such person shall manufacture or sell such liquors.

And in the Ordinance the following provisions relating to the foregoing clauses shall be inserted.

Every voter who desires that the first clause of Article —, relating to the prohibition of the sale of intoxicating liquors, shall be a part of this Constitution, shall have written or printed upon his ballot the words: "Prohibition.—First clause." Every voter who desires that the second clause of said Article —, shall be a part of this Constitution, shall have written or printed on his ballot the words: "Prohibition.—Second clause." Every voter who desires that neither of said clauses of said Article —, shall be a part of this Constitution shall have written or printed on his ballot the words: "Prohibition.—Neither clause."

If it shall appear according to the returns that a majority of all the votes cast on said article so separately submitted are for the said first clause, then said first clause shall be and form a part of this Constitution, and be in full force and effect as such and shall constitute Article — thereof. If it shall appear according to the returns that a majority of all the votes cast on said Article so separately submitted, are for the said second clause, then said second clause shall be and form part of this Constitution, and be in full force and effect as such and shall constitute Article — thereof. If it shall appear according to the returns that neither said first nor said second clause has received a majority of all votes cast on said Article —, then neither one of said clauses shall form any part of this Constitution.

Which was read the first time.

Mr. Bean introduced File No. 52--

#### PROBATE COURTS.

SECTION 1. There shall be established in each organized county of the state a probate court, which shall be a court of record, and be held at such times and places as may be prescribed by law. It shall be held by one judge, who shall be elected by the electors of the county for the term of two years. He shall be learned in the law, a qualified elector of the county at the time of his election, and shall reside therein during his continuance in office. His compensation shall be provided by law. He may appoint his own clerk, where

none has been elected, but the Legislature may authorize the election, by the electors of any county, of one clerk or register of probate, for such county, whose powers and duties shall be prescribed by law.

SEC. 2. The probate court shall have jurisdiction over the estates of deceased persons and persons under guardianship.

Which was read the first time.

Mr. Linwell introduced File No. 53--

All property, both real and personal, of the wife, owned or claimed by marriage, and that acquired afterwards by gift, devise or descent, shall be her property, and laws shall be passed more clearly defining the rights of the wife in relation as well to her separate property as to that held in common with her husband.

Laws shall also be passed providing for the registration of the wife's separate property.

Which was read the first time.

Also File No. 54--

Justices of the peace shall have jurisdiction in any case in which the matter in dispute, is a money demand, or personal property, and the amount of the demand does not exceed two hundred dollars (\$200), but shall have no jurisdiction when the boundaries or title to real property shall be called in question.

Which was read the first time.

Mr. Gray introduced File No. 55—

That none of the lands granted by Congress to the State of North Dakota for school purposes, shall ever be sold, granted or in any way disposed of, other than leased. Nor shall any moneys accruing from said lands be used for any purpose other than the support of the public schools of the state.

Which was read the first time.

Also File No. 56—

**MUNICIPAL SUBSCRIPTIONS TO RAILROADS OR PRIVATE CORPORATIONS.**

No county, city, town, township or other municipality, shall ever become subscriber to the capital stock of any railroad or private corporation, or make donation to or loan its credit in aid of such corporation; *Provided*, however, that the adoption of this article shall not be construed as affecting the right of any such municipality to make such subscriptions where the same have been authorized under existing laws by a vote of the people of such municipalities prior to such adoption.

Which was read the first time.

Mr. Stevens introduced File No. 57—

**PREAMBLE.**

God in His infinite mercy having prospered us as a territory; and looking to Him for a blessing upon our present endeavor to secure and transmit unimpaired to succeeding generations the liberty we now enjoy; and that we may form a more perfect government, establish justice, insure peace and domestic tranquility, provide for the common defense, and promote general prosperity to ourselves and our posterity, do ordain and establish this constitution for the State of North Dakota.

Which was read the first time.

Mr. Blewitt introduced File No. 58—

Should the manufacture and sale of intoxicating liquors ever be prohibited by this state, either by constitutional or legislative enactment, then and in such case the state shall purchase at their full value all breweries or distilleries closed by the operation of said prohibitory law.

Which was read the first time.

Mr. Lowell introduced File No. 59—

SECTION 1. The name of this state shall be called and known as the State of "North Dakota."

SEC. 2. The State of North Dakota shall consist of all the territory included within the following boundaries to-wit: Commencing at a point in the main channel of the Red river of the north, where the forty-ninth degree of north latitude crosses the same, from thence south up the main channel of the same and along the boundary line of the State of Minnesota to a point where the seventh standard parallel intersects the same; thence west along said seventh standard parallel, to a point where it intersects the twenty-seventh meridian of longitude west from Washington; thence north on said meridian to a point where it intersects the forty-ninth degree of north latitude; thence east along said line to place of beginning.

Which was read the first time.

Mr. Carothers introduced File No. 60---

The General Assembly shall have no power to authorize lotteries or gift enterprises, for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets in this state.

Which was read the first time.

Mr. Robertson introduced File No. 61—

Suitable Laws shall be passed by the Legislature for the safe keeping, transfer, and disbursement of the state and school funds, and all officers and other persons charged with the same or any part of the same or the safe keeping thereof, shall be required to give ample security for all moneys and funds of any kind received by them; to make forthwith and keep an accurate entry of each sum received and of each payment and transfer, and if any of said officers or other persons shall convert to his own use, in any manner or form, or shall loan, with or without interest, or shall deposit in his own name or otherwise than in the name of the State of North Dakota, or shall deposit in banks or with any person or persons, or exchange for other funds or property any portion of the funds of the State, or of the school funds aforesaid, except in the manner prescribed by law, every such act shall be and constitute an embezzlement of so much of the aforesaid State and school funds or either of the same as shall be thus taken, or loaned, or deposited, or exchanged and *shall be a felony*, and any failure to pay over, produce or account for the State school funds or any part of the same entrusted to such officer or person as by law required or demanded, shall be held and be taken to be *prima facie* evidence of such embezzlement.

Which was read the first time.

Mr. Miller introduced File No. 62—

The Legislature shall be empowered to make further extensions of suffrage hereafter at its discretion to all citizens of mature age and sound mind not convicted of crime, without regard to sex, but shall not restrict suffrage without a vote of the people.

Which was read the first time.

Mr. Miller moved that during the continuance of the Convention that files on their second reading be read by title only.

Which motion prevailed.

Mr. Stevens moved that File No. 25 be referred to the Committee of the Whole, to be considered July 17.

Which motion prevailed.



## SECOND READING OF FILES.

File No. 20 was read the second time and referred to the Committee on Apportionment.

File No. 21 was read the second time and referred to the Committee on Public Debt.

File No. 22 was read the second time and referred to the Committee on Judiciary.

File No. 23 was read the second time and referred to the Committee on Revenue and Taxation.

File No. 24 was read the second time and referred to the Committee on Temperance.

File No. 25 was read the second time and referred to Committee of the Whole.

File No. 26 was read the second time and referred to the Committee on Legislative Department.

File No. 27 was read the second time and referred to the Committee on Temperance.

File No. 28 was read the second time and referred to the Committee on Legislative Department.

File No. 29 was read the second time and referred to the Committee on Elective Franchise.

File No. 30 was read the second time and referred to the Committee on Temperance.

File No. 31 was read the second time and referred to the Committee on Legislative Department.

File No. 32 was read the second time and referred to the Committee on Revenue and Taxation.

File No. 33 was read the second time and referred to the Committee on Apportionment.

File No. 34 was read the second time and referred to the Committee on Militia.

File No. 35 was read the second time and referred to the Committee on Elective Franchise.

File No. 36 was read the second time and referred to the Committee on Miscellaneous.

File No. 37 was read the second time and referred to the Committee on Legislative Department.

File No. 38 was read the second time and referred to the Committee on Preamble.

File No. 39 was read the second time and referred to the Committee on Militia.

File No. 40 was read the second time and referred to the Committee on Taxation.

File No. 41 was read the second time and referred to the Committee on Municipal Corporations.

File No. 42 was read the second time and referred to the Committee on Revenue and Taxation.

File No. 43 was read the second time and referred to the Committee on Education.

File No. 44 was read the second time and referred to the Committee on Revenue and Taxation.

File No. 45 was read the second time and referred to the Committee on Legislative Department.

File No 46 was read the second time and referred to the Committee on Revenue and Taxation.

File No. 47 was read the second time and referred to the Committee on Education.

File No. 48 was read the second time and referred to the Committee on Preamble and Legislative Department.

Mr. Miller introduced the following resolution and moved its adoption:

*Resolved*, That the various committees of the Convention be empowered to employ clerical assistance when they deem the same necessary, and that the Legislature at its first session make an appropriation to pay said clerks such sum as may be certified to by the Chief Clerk and President of this Convention.

Which resolution was adopted.

#### REPORTS OF STANDING COMMITTEES.

The President called Mr. Williams to the chair.

The Committee on County and Township Organization presented the following report:

*To the Constitutional Convention of North Dakota:*

Your Committee on County and Township Organization beg leave to submit the report embodied in the proposed article on county and township organization hereto attached.

Dated July 16, 1889.

A. F. APPLFTON,  
Chairman.

#### COUNTY AND TOWNSHIP ORGANIZATION.

SECTION 1. The several counties of the territory of Dakota lying north of the seventh standard parallel, as they now exist, are hereby declared to be counties of the State of North Dakota.

SEC. 2. The Legislature shall provide by general law for organizing new counties, locating the county seats thereof temporarily and changing county lines; but no new county shall be organized nor shall any organized county be so reduced as to include an area of less than twenty-four congressional townships, and containing a population of less than 1,000 *bona fide* inhabitants. And in the organization of new counties and in changing the lines of organized counties the boundaries of congressional townships and natural boundaries shall be observed as nearly as may be.

SEC. 3. All changes in county boundaries in counties already organized, before taking effect shall be submitted to the electors of the county or counties to be affected thereby, at the next general election thereafter, and be adopted by a majority of the legal votes cast in each county at such election; and in case any portion of an organized county is so stricken off and added to another, the county to which such portion is added shall assume and be holden for such portions, part and proportion of the indebtedness of the county or counties from which it was so stricken.

SEC. 4. In counties already organized, where the county seat has not been located by vote of the people, it shall be the duty of the County Board to submit the location of the county seat to the electors of said county at the first general election after the admission of the State of North Dakota into the Union, and the place receiving a majority of all votes cast at said election shall be the county seat of said county. If, at said election, no place receive a majority of all the votes cast, it shall be the duty of the County Board of said county to re-submit the location of the county seat to the electors of said county at the next general election thereafter; and the electors at said election shall vote for one of the two places receiving the highest number of votes at the preceding election. The place receiving the majority of all the votes cast for county seat at said second election shall be the county seat of said county.

SEC. 5. Whenever a majority of all the legal voters of any organized county shall petition the county board to change the location of the county seat which has once been located by a vote of the people specifying the place to which it is to be changed, said county board shall submit the question to the voters of said county at the next general election, and if the proposition to so change the county seat be ratified by two-thirds of all the votes cast at said election then the county seat shall be so changed, otherwise not. A proposition to change the location of the county seat of any organized county shall not be submitted oftener than once in six years.

SEC. 6. The Legislature shall have no power to remove the county seat of any organized county.

SEC. 7. The Legislature shall provide by general law for organizing the counties into townships, having due regard for congressional township lines and natural boundaries, and whenever the population is sufficient and the natural boundaries will permit, the civil townships shall be co-extensive with the congressional townships.

SEC. 8. In each organized county at the first general election held after the admission of the State of North Dakota into the Union, and every two years thereafter, there shall be elected a clerk of the court, sheriff, county auditor, register of deeds, treasurer, state's attorney, surveyor, coroner and superintendent of schools, whose terms of office respectively shall be two years, and, except the clerk of court, no person shall be eligible for more than four years in succession to any of the above named offices.

SEC. 9. In each organized civil township there shall be elected, at the first general election, for such terms as the Legislature may by law prescribe, three township supervisors, one of whom shall be designated chairman, and the chairmen of the several boards of township supervisors shall together constitute the county board of their respective counties.

SEC. 10. The Legislature shall provide by general law for such other county, township and district officers as may be deemed necessary, and shall prescribe the duties and compensation of all county, township and district officers.

SEC. 11. All county, township and district officers shall be electors in the county, township or district in which they are elected, except as otherwise provided in this Constitution.

The Judiciary Committee submitted the following report:

Mr. Scott offered the following resolution and moved that it be referred to the Judiciary Committee:

*Resolved*, That no judge of any court established under this Constitution shall, after the adoption thereof, be allowed to draw or receive any salary unless he shall take and subscribe an affidavit before an officer entitled to administer oaths, that no cause in his court remains undecided, that has been submitted for decision for the period of ninety days.

*To the Constitutional Convention of North Dakota:* The Judiciary Committee, to whom was referred the above article or proposition, report the same back, with the opinion that it is inadvisable to incorporate the same in the Constitution; but the matter therein referred to ought to be left to the Legislature to adopt such regulations as the necessities of the case may require.

JOHN E. CARLAND,  
Chairman.

*To the Constitutional Convention of North Dakota:*

The Judicial Committee to whom was referred File No. 3 have had the same under consideration and respectfully recommend that the annexed article be substituted therefor and made a part of the proposed Constitution of North Dakota, and that the matter of the non-sectarian character of the public schools be left to the Committee on Education.

JOHN E. CARLAND,  
Chairman.

COMPACT WITH THE UNITED STATES.

The following article shall be irrevocable without the consent of the United States and the people of this state. First, that perfect toleration of religious sentiment shall be secured, and that no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship; second, that the people inhabiting this state do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States the same shall be and remain subject to the disposition of the United States, and that said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States residing without this state shall never be taxed at a higher rate than the lands belonging to residents of this state, that no taxes shall be imposed by this state on lands or property therein belonging to, or which may hereafter be purchased by the United States or reserved for its use. But nothing in this article shall preclude this state from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any acts of Congress containing a provision exempting the lands thus granted from taxation, which said last mentioned lands shall be exempt from taxation, so long, and to such extent as is, or may be provided in the act of congress granting the same; that the State of North Dakota hereby assumes and agrees to pay, of the indebtedness of the Territory of Dakota, the sum mentioned in Article — of this constitution.

*To the Constitutional Convention of North Dakota:*

The Committee on the Judicial Department to whom was referred File No. 18, hereto annexed, respectfully report the same back with the recommendation that the matter therein should con-

stitute a section under the head of the Legislative Department of the Constitution.

JOHN E. CARLAND,  
Chairman.

Mr. Camp moved that File No. 18 be referred to the Legislative Committee.

Which motion prevailed.

*To the Constitutional Convention of North Dakota:*

The Judiciary Committee to whom was referred File No. 10, hereto annexed, respectfully report the same back with the information that the Committee on the Judicial Department will report an article or section covering the matters therein referred to.

JOHN E. CARLAND,  
Chairman.

*To the Constitutional Convention of North Dakota:*

The Judiciary Committee to whom was referred File No. 8, report the same back with the recommendation that the same be referred to the Committee on Executive Department.

JOHN E. CARLAND,  
Chairman.

Mr. Camp moved that the report be adopted.

Which motion prevailed.

MR. PRESIDENT:

Your committee to whom the annexed resolution pertaining to the compensation of the stenographer of this Convention was referred, respectfully report:

Your committee recommend that said resolution be amended to read "ten dollars per diem" and "fifteen cents per folio for transcribing," and that as so amended the said resolution be adopted.

J. F. SELBY,  
Chairman.

Mr. Blewett moved that the report be adopted.

Which motion prevailed.

Mr. Miller moved to adjourn.

Which motion was lost.

Mr. Parsons, of Morton, moved that all matter submitted to the Convention under the second head of the order of business, which matter is printed in the files and upon the desk of each member, be printed in the minutes by name or number of the file only

Mr. Wallace moved to lay the motion on the table.

Mr. Clapp moved to reconsider the vote by which the report of the Committee on Printing was adopted.

Mr. Parsons, of Morton, withdrew his motion.

Mr. Wellwood moved that the vote by which the report of the Committee on Reporting and Publication was adopted be reconsidered.

Which motion prevailed.

Mr. Stevens moved that the report be referred to the Committee of the Whole.

Which motion prevailed.

Mr. Noble moved to adjourn.

Which motion prevailed, and the Convention adjourned.

J. G. HAMILTON,  
Chief Clerk.

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WEDNESDAY, July 17, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

The President presiding.

Prayer was offered by the Chaplain.

The roll was called, all members being present except Mr. Whipple, excused.

The Journal of the preceding session was read and approved.

FIRST READING OF ARTICLES, RESOLUTIONS, ETC.

Mr. Appleton introduced File No. 65—

SECTION 1. The Legislative power shall be vested in a Legislature, which shall consist of a Senate and House of Representatives.

SEC. 2. The number of members of the House of Representatives shall not be less than sixty nor more than one hundred and twenty. The number of members of the Senate shall not be less than thirty nor more than sixty.

SEC. 3. The terms of the office of the members of the Legislature shall be two years. They shall receive for their services the sum of four hundred dollars, and ten cents for every mile of necessary travel in going to and returning from the place of meeting of the Legislature on the most usual route.

Which was read the first time.

Also File No. 66.

LEGISLATIVE APPORTIONMENT.

SECTION 1. Until otherwise provided by law the House of Representatives shall consist of sixty-two members, and the Senate shall consist of thirty-one members.

SEC. 2. The basis of representation shall be one Representative for each seven hundred voters, and one Senator for each one thousand four hundred voters. Said vote to be ascertained from the vote cast for delegates to Congress at the last general election.

Which was read the first time.

Mr. Miller introduced File No. 67—

No municipal corporation shall ever become indebted in any manner or for any purpose in any amount, in the aggregate, including existing indebtedness, exceeding — percentum, upon the value of the taxable property within such corporation, to be ascertained from the last assessment for state and county taxes previous to the incurring of such indebtedness, and all bonds or obliga-

tions in excess of such amount, except as hereinafter provided, given by such corporation, shall be void, *provided*, however, that any incorporated city may become indebted in an amount not exceeding four per centum on the value of such taxable property without regard to the existing indebtedness of such city, for the purpose of constructing or purchasing water works for furnishing a supply of water to the citizens of such city, and for no other purpose whatever.

Which was read the first time.

Mr. ——— introduced File No. 68—

REVENUE AND TAXATION.

SECTION 1. The Secretary of State, State Auditor and Attorney General shall constitute a board of assessors, whose duty it shall be to assess, each year, all native coal and bullion mined in this state, including all machinery, fixtures and instruments used in mining the same.

SEC. 2. Said board shall ascertain in such manner as prescribed by law, the number of tons of coal or bullion taken from any mine during the year for which such assessment is made, and ascertain the value thereof, and return such assessment in such manner as shall be prescribed by law.

SEC. 3. The result shall be the amount for which the owner of said mine shall be assessed in the county in which the same is situated, and the result shall be subject to the same levy as other property in the respective locality where it is situated; *provided*, however, that said board of assessors shall in no case assess any native coal for less than one dollar nor more than four dollars per ton, and the Legislature shall make necessary laws to enforce the provisions of this article.

Which was read the first time.

Mr. Rolfe introduced File No. 69—

No person shall be held to answer for a criminal offense without due process of law; but any person may be held to answer for a criminal offense upon information of the public prosecutor.

Which was read the first time.

Also File No. 70—

The Legislature shall provide for the publication of all general laws within thirty days after the final adjournment of each session thereof in all newspapers of general circulation printed and published in the State.

Which was read the first time.

Also File No. 71—

Every homestead consisting of not more than 160 acres of land outside the limits of any incorporated city or village, and the dwelling and buildings used therewith, or in lieu thereof, any lot in any city, town or village, with the dwellings and buildings used thereon, owned and occupied as a home by any resident of this state, and not exceeding in value in either case the sum of two thousand five hundred dollars, shall be exempted from sale under execution or other final process obtained on any debt. But no property of any individual shall be exempt from sale for taxes or for payment of any obligation contracted for the purchase of said premises.

The Legislature shall provide for the exemption from sale under execution or other final process for debt of a reasonable amount of personal property to each resident of this state, but such exemption shall not cover property in excess of the value of fifteen hundred dollars nor less than five hundred dollars.

Which was read the first time.

Mr. Parsons, of Morton, introduced File No. 72—

The labor of children under fifteen years of age shall be prohibited in mines, factories and work shops in this state.

Which was read the first time.

Also File No. 73.

There shall be a bureau of labor statistics and a commissioner of the same, to be appointed by the Governor, at a salary to be determined by the Legislature, whose duty it shall be to co-operate with the bureau of labor at our national capital, and to keep the proper records and statistics to the end that the public may arrive at a correct knowledge of the educational, moral and financial condition of the laboring masses.

Which was read the first time.

Mr. Clapp introduced File No. 74—

PREAMBLE.

We, the people of North Dakota, acknowledging the supreme and perfect law of Almighty God, in order to maintain and perpetuate the peace, prosperity and happiness of our citizens, do ordain and establish this Constitution.

Which was read the first time.

Mr. Pollock introduced File No. 75--

All officers, civil and military, now holding office by election or appointment in this Territory, under the authority of the United States or of this Territory, shall continue to hold and exercise their respective offices and appointments until superceded under this Constitution.

Which was read the first time.

Mr. Bennett introduced File No. 76--

Qualified electors in the State of North Dakota shall be eligible to hold any municipal, county or state office.

Which was read the first time.

Mr. Lowell introduced File No. 77--

PUBLIC DEBTS.

SECTION 1. The state may, to meet casual deficits or failures in the revenues, contract debts, but such debts shall never, in the aggregate, exceed the sum of five hundred thousand dollars, except for the purpose of defraying extraordinary expenses. Every such debt shall be authorized by law for certain purposes to be definitely mentioned therein; and every such law shall provide for levying an annual tax sufficient to pay the interest semi-annually, and the principal within thirty years from the passage of such law, and shall specially appropriate the proceeds of said tax to the payment of said principal and interest, and such appropriation shall not be repealed, nor the tax discontinued until such debt, both principal and interest, shall have been wholly paid. Every contract of indebtedness entered into or assumed by the state, when all its debts and liabilities shall equal the sum before mentioned, shall be null and void except in cases where money shall have been borrowed to repel invasion, suppress insurrection, defend the state in time of war or to provide for public defense in case of threatened hostilities.

SEC. 2. No city, county, town or other subdivision of the state, shall ever make donations to any railroad or other work of internal improvement, unless a proposition so to do shall first have been submitted to the qualified electors thereof at an election holden by authority of law. *Provided*, that such donations in the aggregate shall not exceed six per cent. of the assessed valuation of the county or other subdivision so affected. *Provided* further, that any city may by a two-thirds vote, increase such indebtedness five per cent. in addition to such six per cent. And no bonds or evidences of indebtedness so issued shall be valid unless the same shall have endorsed thereon a certificate



signed by the Secretary and Auditor of State showing that the same is issued pursuant to law.

SEC. 3. The credit of the state shall *never* be given to any individual, association or corporation.

Which was read the first time.

Also File No. 78.—

#### MUNICIPAL CORPORATIONS.

SECTION. 1. The Legislature shall provide by general law for the organization of municipal corporations, restricting the power of such corporations to levying taxes and assessments, borrowing money and contracting debts, so as to prevent the abuse of such power.

SEC. 2. Except as otherwise provided in this Constitution, no tax or assessment shall be levied or collected or debts contracted by municipal corporations, except in pursuance of law for public purposes, specified by law; nor shall money raised by taxation, loan or assessment, for one purpose, ever be diverted to any other except by authority of law.

SEC. 3. No city, county, town, precinct or other subdivision of this state shall ever become the subscriber to the capital stock, or owner of such stock, or any portion or interest therein, of any railroad or private corporation or association.

SEC. 4. No street railway, telegraph or telephone shall be constructed within the limits of any village, town or city without the consent of the local authorities.

Which was read the first time.

Mr. Mathews introduced File No. 79—

#### SEAT OF GOVERNMENT.

SECTION 1. The temporary seat of government for the state of North Dakota shall be at the city of Bismarck.

SEC. 2. The Legislature at its first session after the admission of this state into the Union, shall provide for the submission of the question of a place for a permanent seat of government to the qualified voters of the state at the next general election thereafter. The place receiving a majority of all the votes cast upon said question at said election shall be the permanent seat of government.

SEC. 3. Should no place voted for at said election receive a majority of all the votes cast upon said question, the Governor shall issue a proclamation for an election to be held in the same manner at the next general election, to choose between the two places having the highest number of votes at the first election of this question. The place receiving a majority of all the votes cast upon this question of said second election shall be the permanent seat of government.

Which was read the first time.

Mr. Parsons, of Rolette, introduced File No. 80—

The Legislature shall provide by law for the publication of all laws passed by the General Assembly, in newspapers of general circulation, published in the several counties within the state.

Which was read the first time.

Mr. Williams moved that the further reading of Articles at length be dispensed with, and that they be read by title only.

Which motion prevailed.

Mr. Glick introduced File No. 81—

SECTION 1. No license for the sale of intoxicating liquors shall be granted to any person applying for the same under the provisions of the charter of

any city of this state which city contains a population of five thousand (5,000) people or more, by the municipal authorities of said city, except upon the condition that said applicant shall, before the issuance of said license, pay into the treasury of said city in the manner provided by its charter, a license fee of one thousand (\$1,000) dollars, or such fee in excess of said sum as the city council of said city shall, in the manner provided in its charter, fix and prescribe; anything in the charter of any city to the contrary notwithstanding.

SEC. 2. No license for the sale of intoxicating liquors shall be granted to any person applying for the same under the provisions of the charter of any city of this state, which city contains a population of less than five thousand (5,000) people, by the municipal authorities of said city, except upon the condition that said applicant shall, before the issuance of said license, pay into the treasury of said city, in the manner provided by its charter, a license fee of five hundred (500) dollars, or such fee in excess of said sum as the city council of said city shall, in the manner provided by its charter, fix and prescribe; anything in the charter of any city to the contrary notwithstanding; *Provided*, That no license shall be granted for a longer period than one (1) year, or for a period beyond twenty (20) days after the annual election in such village or city next ensuing after the date of such license.

Which was read the first time.

Mr. Haugen introduced File No. 82—

MUNICIPAL CORPORATIONS.

The Legislature shall provide for the organization of cities and incorporated villages by general laws, and restrict their power of taxation, assessment, borrowing money, contracting debts and loaning their credits, so as to prevent the abuse of such power.

Which was read the first time.

Mr. Johnson introduced File No. 83—

If a general banking law be enacted, it shall provide for the registry and countersigning, by an officer of the state, of all notes or bills designed for circulation, and that ample security to the full amount thereof shall be deposited with the State Treasurer for the redemption of such notes or bills.

Which was read the first time.

SECOND READING OF FILES.

File No. 49 was read the second time and referred to the Committee on County and Township Organization.

File No. 50 was read the second time and referred to the Committee on Revenue and Taxation.

File No. 51 was read the second time and referred to the Committee on Temperance.

File No. 52 was read the second time and referred to the Committee on Judiciary.

File No. 53 was read the second time and referred to the Committee on Judiciary.

File No. 54 was read the second time and referred to the Committee on Judiciary.

File No. 55 was read the second time and referred to the Committee on Public Lands.

File No. 56 was read the second time and referred to the Committee on Corporations other than Municipal.

File No. 57 was read the second time and referred to the Committee on Preamble.

File No. 58 was read the second time and referred to the Committee on Temperance.

File No. 59 was read the second time and referred to the Committee on Miscellaneous.

File No. 60 was read the second time and referred to the Committee on Legislative Department.

File No. 61 was read the second time and referred to the Committee on Public Lands.

File No. 62 was read the second time and referred to the Committee on Elective Franchise.

Mr. Camp introduced the following resolution and moved its adoption:

*Resolved.* That this Convention invite Hon. Thomas M. Cooley to address the Convention at some time to be designated by him, and this day if convenient, and that the President cause this invitation to be conveyed to Judge Cooley at once.

Which resolution was adopted.

The President appointed Messrs. Camp, Lauder and Stevens as a committee to extend the invitation to Judge Cooley.

Mr. Camp moved that the Convention take an informal recess subject to the call of the President, for the purpose of giving the delegates an opportunity to meet Judge Thomas M. Cooley.

Which motion prevailed.

Mr. Camp moved that the rules be suspended and that the Convention listen to an address by Judge Cooley.

Which motion prevailed.

Judge Cooley addressed the Convention.

Mr. Carland moved that the Convention do now resolve itself into a Committee of the Whole to consider the reports of the standing committees.

Which motion prevailed, and

The President called Mr. Carland to the chair.

When the Committee rose the following report was presented.

**MR. PRESIDENT:**

Your Committee of the Whole have had under consideration File No. 64, compact with the United States, and recommend that the report of the Judiciary Committee be adopted, and that the article proposed by the Committee be adopted as an article of the Constitution.

Also File No. 63, and recommend that it be made a special order for July 18th.

Also the report of the Committee on Reporting and Publication in reference to the compensation to be paid the stenographer, and recommend that the report of the committee be amended by providing that the compensation of the

stenographer be fixed at ten dollars per diem and ten cents a folio for transcribing.

Also the resolution introduced by Mr. Stevens vesting legislative authority in one house, and recommend that it be made a special order for Monday next.

JOHN E. CARLAND,  
Chairman.

Mr. Flemington moved that the report be adopted.  
Which motion prevailed.

Mr. Selby introduced the following resolution:

*Resolved*, That five hundred copies of the transcribed stenographic report of the debates and proceedings of this convention be printed and published in bound volume form for distribution among the members, and exchange with other state and territorial libraries, and that the Legislature of the state at its first session make an appropriation for the payment of such printing and publication, as certified to by the proper committee, unless such expense is paid out of the Congressional appropriation to defray the expenses of this Convention.

And moved that it be referred to the Committee of the Whole.  
Which motion prevailed.

The President designated Mr. Johnson, of Nelson, to act as President *pro tempore* during his absence.

Mr. Stevens moved to adjourn.

Which motion prevailed, and the Convention adjourned.

JOHN G. HAMILTON,  
Chief Clerk.

THURSDAY, July 18, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

The President *pro tempore* presiding.

The Chaplain being absent, prayer was offered by Rev. Ezra Turner.

The Journal of the preceding session was read and corrected by striking out the word "printing" in the last line on page 6, and inserting in lieu thereof the word "providing," and the word "translating" on page 7, first line, and in lieu thereof the word "transcribing," and with these corrections the Journal was approved.

Mr. Spalding moved that the members of the Commission from North Dakota be given permission to sit during the sessions of the Convention.

Which motion prevailed.

Mr. Camp introduced the following resolution and moved its adoption.

When the Committee of the Whole shall have recommended that any proposition or article be made a part of the Constitution, such proposition or article shall be referred to the Committee on Revision and Adjustment, whose duty it shall be to arrange in order and revise all such propositions so that no part of the Constitution shall conflict with any other, and to report a Constitution embracing all propositions and articles so referred, as so provided and adjusted, for final adoption as a whole by this Convention.

The resolution was adopted.

Mr. Stevens moved to amend the resolution of Mr. Camp to read:

*Resolved*, That each proposed article of the Constitution considered for the first time in the Committee of the Whole shall, if adopted, be considered as adopted only for the purpose of referring the same to the Committee on Revision and Adjustment, and that final action on such article be only taken upon the report of the last named committee.

Which amendment was lost and the original resolution was adopted.

#### FIRST READING OF ARTICLES, RESOLUTIONS, ETC.

Mr. Bartlett, of Griggs, introduced File No. 84—

Laws shall be passed taxing by uniform rule, all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, and all real and

personal property, according to its true value in money, but improvements and cultivation of the soil shall not be considered in arriving at the cash value of lands, but all lands of the same quality and kind shall bear equal taxation, *provided*, That nothing herein shall exempt from taxation any buildings or like improvements. And *provided* further, That this section shall not apply to land lying within the limits of any incorporated city, village or town.

Which was read the first time.

Mr. Scott introduced File No. 85—

In acting on Executive nominations the Senate shall sit with open doors, and in confirming or rejecting the nominations of the Governor, the vote shall be taken by yeas and nays, and shall be entered on the Journal.

Which was read the first time.

Mr. Linwell introduced File No. 86—

#### EXEMPTIONS.

SECTION 1. The right of the debtor to enjoy the comforts and necessities of life shall be recognized by wholesome laws, exempting from forced sale a homestead, the value of which shall be limited and defined by law, to all heads of families, and a reasonable amount of personal property; the kind and value shall be fixed by law.

SEC. 2. The homestead of a family, after the death of the owner thereof, shall be exempt from the payment of his debt contracted after the adoption of this Constitution in all cases during the minority of his children.

SEC. 3. If the owner of a homestead die, leaving a widow but no children, the same shall be exempt, and the rents and the profits thereof shall accrue to her benefit during the time of her widowhood.

SEC. 4. Exemption shall not extend to any mortgage upon the homestead lawfully obtained; but such mortgage or other alienation of the homestead by the owner thereof, if a married man, shall not be valid without the signature of the wife to the same.

Which was read the first time.

Mr. McKenzie introduced File No. 81—

The grand jury may consist of any number of members, not less than five nor more than fifteen, as the General Assembly may provide by law; or the General Assembly may provide for holding persons to answer for any criminal offense without the intervention of a grand jury.

Which was read the first time.

Mr. Fay introduced File No. 88—

No act of the General Assembly shall take effect until the first day of July next, after its passage, unless, in case of emergency, (which emergency shall be expressed in the preamble or body of the act) the General Assembly shall by a vote of two-thirds of all the members elected to each House otherwise direct.

Which was read the first time.

Mr. Parsons, of Morton, introduced File No. 89—

Every citizen of this state shall be free to obtain employment, wherever possible, and any person, corporation or agent thereof keeping a black list, interfering or hindering in any way a citizen from obtaining or enjoying employment already obtained, from the same or another corporation or person, shall be deemed guilty of conspiracy against the welfare of the state, which offense shall be deemed a felony.

Which was read the first time.

Mr. Douglass introduced File No. 90—

Any combination between individuals, corporations, associations, or either, having for its object or effect the controlling of the price of any product of

the soil or article of manufacture or commerce, or the cost of exchange is prohibited and hereby declared unlawful and against public policy; and that any and all franchises heretofore granted or extended, or that may hereafter be granted or extended in this state, whenever the owner or owners thereof violate this article, shall be annulled and declared void and their property within the state escheated.

Which was read the first time.

Mr. Parsons, of Morton, introduced File No. 91—

SECTION 1. Whenever a difference shall arise between any corporation other than municipal and its employes or an industrial society incorporated under the laws of this state, any of whose members are employes of such corporation, if the disagreement cannot be adjusted by conference, either party may serve notice of arbitration upon the other, and each shall choose one person as arbitrators, the two to choose a third. The three shall constitute a board of arbitration, and shall forthwith proceed to hear and determine said difference or cause of grievance. The decision of said board of arbitration shall be binding upon both parties and be in force from the time of the decision.

SEC. 2. Appeal may be had to the Supreme Court from the decision of the arbitrators, but said decision shall be carried out pending the decision of the Supreme Court.

Which was read the first time.

Mr. Blewett introduced File No. 92—

#### OATH OF OFFICE.

SECTION 1. Members of the Legislature and all officers, executive and judicial, except such inferior officers as may be by law exempted shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of North Dakota; and that I will faithfully discharge the duties of the office of \_\_\_\_\_ according to the best of my ability."

And no other oath, declaration, or test shall be required as a qualification for any office or public trust.

Which was read the first time.

Mr. Hegge introduced File No. 93—

In case prohibition of the manufacture and sale of intoxicating liquor is not adopted and incorporated in the Constitution, then the Legislature shall provide a system of licensing the manufacture and sale of such liquors, fixing the license fee or fees for such liquor at a minimum of not less than one thousand dollars per annum.

Which was read the first time.

#### SECOND READING OF ARTICLES.

File No. 65 was read the second time and referred to the Committee on Legislative Department.

File No. 66 was read the second time and referred to the Committee on Apportionment and Representation.

File No. 67 was read the second time and referred to the Committee on Municipal Corporation.

File No. 68 was read the second time and referred to the Committee on Revenue and Taxation.

File No. 69 was read the second time and referred to the Committee on Preamble and Bill of Rights.

File No. 70 was read the second time and referred to the Committee on Legislative Department.

File No. 71 was read the second time and referred to the Committee on Miscellaneous.

File No. 72 was read the second time and referred to the Committee on Executive Department.

File No. 73 was read the second time and referred to the Committee on Executive Department.

File No. 74 was read the second time and referred to the Committee on Preamble.

File No. 75 was read the second time and referred to the Committee on Schedule.

File No. 76 was read the second time and referred to the Committee on Elective Franchise.

File No. 77 was read the second time and referred to the Committee on Public Debt.

File No. 78 was read the second time and referred to the Committee on Municipal Corporations.

File No. 79 was read the second time and referred to the Committee on Public Institutions.

File No. 80 was read the second time and referred to the Committee on Legislative Department.

File No. 81 was read the second time and referred to the Committee on Temperance.

File No. 82 was read the second time and referred to the Committee on Municipal Corporations.

File No. 83 was read the second time and referred to the Committee on Corporations.

Mr. Spalding moved that the Convention do now resolve itself into a Committee of the Whole to consider the resolution offered by Mr. Selby.

Which motion prevailed, and the President called Mr. Moer to the chair.

When the Committee rose the following report was presented:

**MR. PRESIDENT:**

Your Committee of the Whole have had under consideration the resolution of Mr. Selby providing for the publication of five hundred copies of the debates and proceedings of this Convention in bound form, for distribution among the members of this Convention and other state and territorial libraries, and recommend that the resolution be amended by striking out the words "five hundred" and inserting in lieu thereof the words "one thousand."

Also, that it be amended by striking out the words "and that the Legislature of the state at its first session make an appropriation for the payment of such printing and publication, as certified to by the proper committee, unless such expense is paid out of the congressional appropriation to defray the expenses of this Convention;" and that it be further amended by providing that



each member of the Convention shall be entitled to receive six copies thereof, each employe of the Convention one copy, each state or territorial library one copy, the congressional library one copy and the first state officers elected one copy each, and when so amended the Committee recommends the adoption of the resolution.

S. H. MOER,  
Chairman.

Mr. Pollock moved that the report of the Committee be adopted.  
Which motion prevailed.

The President *pro tempore* called Mr. Stevens to the chair.

Mr. Blewett moved to adjourn.

Which motion prevailed, and the Convention adjourned.

J. G. HAMILTON,  
Chief Clerk.

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FRIDAY, July 19, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

The President *pro tempore* presiding.

The roll was called, all members being present except Messrs. Camp and Whipple, who were excused.

The Journal of the preceding session was read, and the words "the resolution was adopted," following the resolution introduced by Mr. Camp, was stricken out, and with this correction the Journal was approved.

Mr. Lauder moved that the vote by which the resolution introduced by Mr. Camp was adopted be reconsidered.

Which motion prevailed.

Mr. Lauder moved to amend the resolution so as to read after the word "final" in the last line the following: "Adoption or amendment, section by section, by this Convention, and to be then adopted as a whole."

Which amendment prevailed, and the resolution was adopted.

Mr. Williams moved that the resolution be laid over until next Tuesday, and then come up as unfinished business.

Which motion was lost.

Mr. Parsons, of Morton, introduced the following resolution, and moved its adoption:

*Resolved*, That the Committee on Revision and Adjustment be instructed to report to this Convention every change made in the text of matter referred to it.

The yeas and nays were demanded on the passage of the resolution.

The roll being called there were ayes 63, nays 8, viz:  
Those who voted in the affirmative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Allin,	Haugen,	Paulson,
Almen,	Hegge,	Peterson.
Bartlett, of Dickey,	Hoyt,	Powers,
Bartlett, of Griggs,	Johnson,	Powles,
Bell,	Lander,	Purcell,
Bennett,	Linwell,	Pollock,
Best,	Lohnes,	Ray,
Brown,	Lowell,	Richardson,
Carland,	Marrinan,	Robertson,
Carothers,	Mathews,	Rolfe,
Chaffee,	Meacham,	Rowe,
Clapp,	McBride,	Scott,
Clark,	McHugh,	Selby,
Colton,	McKenzie,	Shuman,
Douglas,	Miller,	Slotten,
Elliott,	Moer,	Spalding,
Fay,	Noble,	Stevens,
Flemington,	Nomland,	Turner,
Gayton,	O'Brien,	Wallace,
Glick,	Parsons, of Morton,	Wellwood,
Harris,	Parsons, of Rolette,	Williams.

Those who voted in the negative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Appleton,	Budge,	Holmes,
Bean,	Gray,	Sandager.
Blewett,	Griggs,	

Absent and not voting:

<b>Messrs.</b> Camp,	<b>Mr.</b> Whipple,	<b>Mr.</b> President.
Leach,		

So the resolution was adopted.

#### FIRST READING OF ARTICLES, RESOLUTIONS, ETC.

Mr. Lowell introduced File No. 94—

#### CORPORATIONS.

**SECTION 1.** The term "corporation" as used in this article, shall be construed to include all associations and joint stock companies having any of the powers and privileges not possessed by individuals or partnerships, and all corporations shall have the right to sue, and shall be liable to be sued in all courts in like manner as natural persons.

**SEC. 2.** Corporations shall not be formed under special acts except for municipal purposes.

**SEC. 3.** All railroad and transportation companies are declared to be common carriers, and shall be required to transport freight and passengers, and shall receive for such transportation only such compensation as is reasonable and just, to be determined as a judicial question by the courts of this state.

**SEC. 4.** Lands may be taken for public way for the purpose of granting to any corporation the franchise of way for public use; in all cases, however, a fair and equitable compensation shall be paid for such lands and the damages arising from the taking of the same, which compensation shall be paid or secured before the taking thereof.

Which was read the first time.

Mr. Rowe introduced File No. 95—

State senators shall be elected for a term of four years, and they shall be divided as equally as may be into two classes. The first class shall consist of the senators from the even numbered districts, and the second class shall consist of the senators from the odd numbered districts, but the terms of office of the two classes of senators shall not expire on dates less than two years apart. *Provided*, That in consequence of the first election the senators of the first class shall only hold their office for one year, and the senators of the second class shall hold their office three years.

Which was read the first time.

Mr. Lohnes introduced File 96—

They, the Supreme court judges, shall be obliged to give their opinion upon important questions of law when required by the Governor, Council, or House of Representatives.

Which was read the first time.

Mr. Rowe introduced File No. 97—

The three-fourths majority vote of the petit jury of any court in this state shall constitute a verdict.

Which was read the first time.

Mr. Clark introduced File No. 98—

School treasurers must deposit all school money in a national or other duly incorporated bank, and can only pay out the same on a check countersigned by the school clerk.

Which was read the first time.

Also File No. 99—

SECTION 1. There shall be at the first general election of state officers two persons, duly qualified electors, whose term of office shall be fixed by the Legislature, who with the Lieutenant Governor, Attorney General and Commissioner of Public Lands, shall constitute a Board of Commissioners for the sale and leasing of school lands and general management of school funds in such manner as may be provided by law.

SEC. 2. The first Legislature convening after the adoption of this Constitution shall provide for the sale, as speedily as possible, of not more than one-fourth of the school lands, at a price not less than \$10 per acre.

Which was read the first time.

Mr. Bartlett of Dickey, introduced File No. 100—

SECTION 1. The Legislature shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

SEC. 2. The Legislature shall make no law respecting the observance of a Sabbath, but shall afford equal protection to all in the observance of the day they may select.

Which was read the first time.

Mr. Gray introduced File No. 101—

The state of North Dakota shall be divided into twenty-five senatorial districts, bounded by the same lines and comprising the area, as are the districts described in the executive proclamation, which called into existence this convention. From each of these districts there shall be elected one state senator and three members of the House of Representatives, and that in voting for the members of the lower house, the elector may cast three votes—one for each—or may cast one and

one-half for two—or may cast three votes for one candidate. At the first general election the senators in the even-numbered districts shall be elected for four years, and in the odd-numbered districts for two years, and every four years thereafter; and that this apportionment shall stand until changed by the Legislature; *Provided*, That whatever number of senators may be determined upon, the lower house shall have three times the number, to be elected on the cumulative plan.

Which was read the first time.

Mr. Fay introduced File No. 102—

That at the first election for members of the senate in the even-numbered districts, one senator shall be elected for two years, and in the odd-numbered districts one senator shall be elected for four years; and thereafter all members of the senate shall be elected for four years.

Which was read the first time.

Mr. Hegge introduced File No. 103—

SECTION 1. Laws shall be passed taxing all personal property of all descriptions, such as moneys, credits, investments in bonds, stocks, joint stock companies or otherwise, by a uniform rule, and all real property shall be taxed by a uniform rule according to its true value in money, but the property of the United States and of the state, county and municipal corporations, both real and personal, shall be exempt from taxation, and the legislature shall, by general law, exempt from taxation property used exclusively for public schools, religious, cemetery or charitable purposes, and personal property to any amount not exceeding in value two hundred dollars to each individual liable to taxation.

SEC. 2. The Legislature shall provide for a Board of Assessors, elected by the people, whose duty it shall be each year to assess each railroad in the state, and shall ascertain the amount for which each railroad company shall be assessed in each county of the state, said assessment to be subject to the same levy as other property in the respective locality where it is situated.

SEC. 3. In arriving at the actual value of real property the cultivation of the soil shall not be taken into consideration.

Which was read the first time.

Mr. Pollock introduced File No. 104—

The Legislature shall have no power to pass any act granting any charter for banking purposes, but corporations or associations may be formed for such purposes under general laws. No corporation, association or individual shall issue or put in circulation, as money, anything but the lawful money of the United States.

#### SECOND READING OF ARTICLES.

File No. 84 was read the second time and referred to the Committee on Revenue and Taxation.

File No. 85 was read the second time and referred to the Committee on Legislative Department.

File No. 86 was read the second time and referred to the Committee on Miscellaneous.

File No. 87 was read the second time and referred to the Committee on Judiciary.

File No. 88 was read the second time and referred to the Committee on Legislative Department.

File No. 89 was read the second time and referred to the Committee on Preamble.

File No. 90 was read the second time and referred to the Committee on Corporations other than Municipal.

File No. 91 was read the second time and referred to the Committee on Corporations other than Municipal.

File No. 92 was read the second time and referred to the Committee on Judiciary.

File No. 93 was read the second time and referred to the Committee on Temperance.

#### REPORTS OF STANDING COMMITTEES.

MR. PRESIDENT:

The Committee on Revenue and Taxation would respectfully report back to this Convention File No. 44 and File No. 46, and recommend that they do not pass, as the matter is already covered by other proposed articles.

J. L. COLTON,  
Chairman.

Mr. Scott moved that the convention do now resolve itself into a Committee of the Whole to consider the report of the Committee on County and Township Organization.

Which motion prevailed, and

The President called Mr. Lauder to the chair.

When the committee rose the following report was presented:

MR. PRESIDENT:

Your Committee of the Whole have had under consideration the report of the committee on County and Township Organization and recommend that sections one and two of the report be adopted as sections of the constitution. Also recommend that section three be amended by adding to the close of the section the words "As the assessed valuation of the part so stricken off shall bear to the total assessment of the said county or counties," and that when so amended the section be adopted as a section of the Constitution. Your Committee reports progress and asks leave to sit again.

W. S. LAUDER,  
Chairman.

Mr. McHugh moved that the report be adopted.

Which motion prevailed.

Mr. Mathews moved that when the Convention adjourn it take a recess until Tuesday, 2 o'clock p. m.

Which motion was lost.

Mr. Miller moved that the further consideration of File No. 63 be postponed until next Tuesday.

Which motion prevailed.

The following members were excused until next Tuesday: Messrs. Douglass, Flemington, Griggs, Lauder, Miller, Mathews, Rowe, Bean, Holmes.

Mr. Bean moved to adjourn until Tuesday next. Yeas and nays demanded on the motion:

The roll being called there were ayes 21, nays 43, viz:

Those who voted in the affirmative were:

<b>Messrs—</b> Almen, Bartlett, of Griggs, Bean, Brown, Budge, Chaffee, Clark,	<b>Messrs—</b> Douglas, Flemington, Hoyt, Linwell, Lowell, Mathews, Meacham,	<b>Messrs—</b> Powers, Pollock, Robertson, Rolfe, Shuman, Stevens, Williams,
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Those who voted in the negative were:

<b>Messrs—</b> Allin, Appleton, Bartlett, of Dickey, Bell, Bennett, Best, Blewett, Carland, Carothers, Clapp, Colton, Elliott, Fay, Gayton, Glick,	<b>Messrs—</b> Gray, Haugen, Hegge, Holmes, Johnson, Lauder, Lohnes, Marrinan, McBride, McHugh, McKenzie, Moer, Noble, Nomland,	<b>Messrs—</b> O'Brien, Parsons, of Morton, Parsons, of Rolette, Paulson, Peterson, Powlee, Ray, Richardson, Rowe, Selby, Slotten, Turner, Wallace, Wellwood,
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Absent and not voting:

<b>Messrs—</b> Camp, Griggs, Harris, Leach,	<b>Messrs—</b> Miller, Purcell, Sandager, Scott,	<b>Messrs—</b> Spalding, Whipple, Mr. President,
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So the motion to adjourn was lost.

Mr. Parsons, of Morton, moved to adjourn.

Which motion prevailed and the Convention adjourned.

J. G. HAMILTON,  
Chief Clerk.

## Journal of the Convention.

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SATURDAY, July 20, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

The President presiding.

Prayer was offered by the Chaplain.

The roll was called and all absent members were excused.

Mr Williams moved that the reading of the Journal be dispensed with.

Which motion prevailed.

Mr. Williams moved that the rules be suspended and articles be read by their titles only.

Which motion prevailed.

### FIRST READING OF ARTICLES, RESOLUTIONS, ETC.

Mr. Turner introduced File No. 105.

### ELECTIONS.

SECTION 1. All elections in this state shall be by secret ballot, and the booth in which the elector shall mark his ballot shall be so situated as to prevent any communication with him or any knowledge of how he votes, by any other person.

SEC. 2. All ballots and ballot boxes shall be provided by the state and counties, respectively, for their own elections, and by the state for United States elections, and there shall be separate tickets and boxes, first for national, second for state and third for county officials.

SEC. 3. All electors must be registered ninety days before the day of election, and certified copies prepared by the clerk or auditor of each township, municipality or county for each polling place therein, and all lists must be certified to as being true according to the certified list of the court of examiners.

SEC. 4. The following shall be the only purposes for which funds may be used in, before or after elections, by any candidate or his agents, or any other person or persons in his behalf, namely: Renting halls for political meetings, printing, postage in circulating political literature, newspaper advertising and the payment of public speakers and traveling expenses connected with campaign work.

SEC. 5. Any person giving, receiving or offering a bribe to influence a vote or as a reward for his vote, shall forever be disqualified from holding any office and from exercising the right of franchise in this state.

Mr. Williams introduced File No. 106.

CONSTITUTION  
OF  
NORTH DAKOTA.

PREAMBLE.

WE, the people of North Dakota, grateful to Almighty God for the blessings of civil and religious liberty, do ordain and establish this constitution.

Part 1—The State.

ARTICLE I.

DESIGNATION OF THE STATE.

SECTION 1. The name of this state shall be North Dakota.

SEC. 2. The boundaries of this state are and shall remain as follows, that is to say: Commencing at a point in the main channel of the Red River of the North, where the forty-ninth degree of north latitude crosses the same; from thence south up the main channel of the same and along the boundary line of the state of Minnesota to a point where the seventh standard parallel intersects the same; thence west along said seventh standard parallel to a point where it intersects the twenty-seventh meridian of longitude west from Washington; thence north on said meridian to a point where it intersects the forty-ninth degree of north latitude; thence east along said line to place of beginning.

ARTICLE II.

RELATION OF THE STATE TO THE UNITED STATES.

SECTION 1. The State of North Dakota is an inseparable part of the Union, and the Constitution of the United States is the supreme law of the land.

SEC. 2. United States senators shall be elected from time to time by the general assembly, as prescribed by law.

SEC. 3. Until otherwise provided by law, the members of the house of representatives of the United States apportioned to this state shall be elected by the state at large.

SEC. 4. No change shall be made, either by act of the general assembly or by constitutional amendment, which is inconsistent with or repugnant to a republican form of government.

SEC. 5. The following article shall be irrevocable without the consent of the United States and the people of this state; First, that perfect toleration of religious sentiment shall be secured, and no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship; sec-



only, that the people inhabiting this state do agree and declare that they forever disclaim all right and title to the unappropriated public lands of the United States lying within the state, and that the same shall be and remain at the sole and entire disposition of the United States, and that the lands belonging to citizens of the United States residing without this state shall never be taxed higher than the lands belonging to residents thereof, and that no taxes shall be imposed by the state on lands or property therein belonging to, or which may hereafter be purchased by the United States.

**Part II.—The People.**

**CHAP. I.—Individuals.**

**ARTICLE III.**

**DECLARATION OF RIGHTS.**

*(1.) Natural Rights.*

**SECTION 1.** All men are born equally free and independent, and have certain inherent, inalienable and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness.

**SEC. 2.** All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences, and no person shall be denied any civil or political right, privilege or capacity on account of his religious opinions. No man can of right be compelled to attend, erect or support any place of worship or to maintain any minister of religion against his consent. No preference shall ever be given by law to any religious establishment or mode of worship; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness or justify practices inconsistent with the peace or safety of the state.

**SEC. 3.** No title of nobility or hereditary distinction, privilege, honor or emolument shall ever be granted or conferred in this state.

**SEC. 4.** Emigration from the state shall not be prohibited.

**SEC. 5.** Aliens who are *bona fide* residents of this state shall have the rights of citizens with regard to the acquisition, possession, transfer and descent of property.

**SEC. 6.** Every man shall have the right freely to write, speak and publish his opinions on all subjects, being responsible for the abuse of that privilege. In all civil and criminal trials for libel, the truth may be given in evidence, and shall be a sufficient de-

fense when the matter is published with good motives and for justifiable ends; and the jury shall have the same power of giving a general verdict as in other cases.

SEC. 7. All political power is inherent in the people, and they have the right to alter, reform or abolish their form of government whenever the public good may require it.

(2.) *Rights as to Crimes—Before Trial.*

SEC. 8. Treason shall consist only in levying war against the state or adhering to its enemies, giving them aid and comfort.

SEC. 9. No person can be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 10. All persons shall be bailable by sufficient surety, except for treason, murder or any capital crime, where the proof is evident or the presumption great.

SEC. 11. Excessive bail shall not be required.

SEC. 12. No person shall be imprisoned for the purpose of procuring his testimony in any case, longer than may be reasonably necessary in order to take his deposition or secure his recognizance with sufficient surety.

SEC. 13. The privilege of the writ of *habeas corpus* shall not be suspended except when, in case of rebellion or invasion, the public safety may require it.

SEC. 14. Unless otherwise provided by law, no person shall be held for a capital or otherwise infamous crime, unless on a presentment or indictment of the grand jury, except in cases of impeachment, in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger, and in cases of petit larceny and other minor offenses.

SEC. 15. No ex post facto law shall be passed.

SEC. 16. The people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures, and no warrant to search any place or seize any person or thing shall issue without describing them as nearly as may be, and without probable cause supported by oath or affirmation subscribed by the affiant.

*Rights as to Crimes—At Trial.*

SEC. 17. No person shall be deprived of life, liberty or property without due process of law.

SEC. 18. In all criminal prosecutions the accused has a right to a speedy trial by an impartial jury of the county in which the offense was committed; *provided*, that the general assembly shall have power to provide for the trial of crimes not infamous, by a jury of less than twelve.

SEC. 19. The accused has a right to be heard by himself or his counsel, and to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor; and he cannot be compelled to give evidence against himself. But the general assembly may provide for the taking of depositions in criminal cases in presence of the party, when there is reason to believe that any witness from sickness or other cause cannot attend at the trial, and when it is important to preserve the testimony. But such deposition shall not be used if the witness can be personally present at the trial.

SEC. 20. No person shall for the same offense be twice put in jeopardy of his life or liberty.

*Rights as to Crimes—After Trial.*

SEC. 21. Excessive fines shall not be imposed or cruel punishments inflicted, but all punishments and penalties shall be proportioned to the offense.

SEC. 22. Banishment from the state or transportation shall not be allowed as a punishment for crime.

SEC. 23. No bill of attainder shall be passed, and no conviction shall work corruption of blood or forfeiture of estate.

*(3.) Rights as to Civil Matters.*

SEC. 24. No law impairing the obligation of contracts shall be passed.

SEC. 25. Every person for an injury done to him in his person, reputation, property, rights or immunities shall have remedy by due course of law, and right and justice shall be administered freely and without sale, completely and without denial, promptly and without delay.

SEC. 26. In all civil suits the parties may be heard by themselves or their counsel.

SEC. 27. Trial by jury, as has been customary, shall remain inviolate, but a trial by jury may be waived by the parties in all civil cases, in a manner to be prescribed by law; and the general assembly may authorize a trial by a jury of less than twelve men in courts of inferior jurisdiction; and without jury if the right to a jury upon appeal be secured.

SEC. 28. No person shall be imprisoned for debt except in cases of fraud.

SEC. 29. The right of eminent domain shall never be so construed as to prevent the legislature from taking the property or franchises of incorporated companies for public purposes, under the same conditions as those of individuals. And the police powers of the state shall never be so construed as to permit corporations, or individual to conduct their business so as to infringe

the equal rights of other persons or the general well-being of the state.

SEC. 30. Private property shall not be taken for public use without just compensation being first made or secured; the amount whereof shall be determined by due process of law.

SEC. 31. Suits may be brought against the state in such a manner, in such courts and in such cases as the general assembly may by law direct.

(4.) *Rights as to the Military.*

SEC. 32. A well regulated militia being necessary to the security of a free state, the right of the people to bear arms shall not be questioned, but the general assembly shall have the power to prescribe by law the manner in which arms may be borne.

SEC. 33. No standing army shall be kept up in this state in time of peace, and in time of war no appropriation for a standing army shall be for a longer period than two years; and the military shall in all cases and at all times be in strict subordination to the civil power.

SEC. 34. No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

(5.) *Rights as to the Government.*

SEC. 35. The citizens have a right in a peaceable manner to assemble together for the common good, to instruct their representatives, and to apply to those invested with the powers of government, for redress of grievances or other purposes, by petition, address or remonstrance.

SEC. 36. All elections shall be free; and no power, civil or military, shall at any time interfere to prevent the exercise of the right of suffrage.

SEC. 37. This enumeration of certain rights shall not impair, disparage or deny others retained by the people.

## ARTICLE IV.

### MISCELLANEOUS RIGHTS OF INDIVIDUALS.

SEC. 1. A reasonable amount of property to be determined by law, shall be exempt from seizure or sale for the payment of any debt or liability.

SEC. 2. Liberal homestead laws shall be passed by the general assembly.

SEC. 3. The real and personal property of any woman in this state, acquired before marriage, and all property to which she may after marriage become in any manner rightfully entitled,

shall be her separate property, and shall not be liable for the debts of her husband.

## ARTICLE V.

### SUFFRAGE AND ELECTIONS.

#### (1.) *Suffrage.*

SECTION 1. Every male person not under the age of twenty-one years and not an idiot or lunatic and not confined in any public prison, belonging to any one of the following classes, who shall have been an inhabitant of this state one year next preceding an election, and an inhabitant of the county and of the election district in which he shall offer his vote, for the last three months next preceding an election, shall be deemed a qualified elector at such election, and be entitled to vote in such election district, for all officers that now are or hereafter shall be elected by the people, and upon all questions which shall be submitted to the vote of the people. Such electors shall be either;

- (1.) Citizens of the United States;
- (2.) Persons of Indian blood or of mixed white and Indian blood, who shall have adopted, for not less than two years, the language, customs and habits of civilization;
- (3.) Male persons of foreign birth who, not less than two years nor more than five years before offering to vote, shall according to law, have declared their intention to become citizens of the United States.

SEC. 2. No religious test or property qualification shall be required of any voter at any election in this state. But the general assembly may at any time adopt as a general qualification the test of ability to read with facility the Constitution of the United States.

SEC. 3. In time of war, insurrection or rebellion, all persons otherwise entitled under this article to be electors who shall be absent from the place of which they are inhabitants by reason of being in the actual military or naval service of the United States or this state, whether within or without the state, shall, without registration, be entitled to vote in any election occurring during such absence. The votes of all such persons, wherever they may be, may be taken on the day of such election or at any time within twenty days next before said day, and the general assembly shall provide for the manner in which and the time and places at which such absent electors shall vote, and for the return and canvass of their votes in the election districts of which they respectively are inhabitants.

SEC. 4. A person shall be considered an inhabitant for the purposes of this article, of that county and election district within

this state wherein he dwells and has his home. But a person dwelling upon Indian lands, within the state, shall, for the purposes of this article, be deemed an inhabitant of the election district nearest his home, and of the county to which such district belongs.

SEC. 5. For the purposes of this article, no person shall be deemed to have become an inhabitant by reason of his presence or to have ceased to be such by reason of his absence, while engaged in the service, either civil, naval or military, of this state or of the United States, or while employed in the navigation of the waters of this state or of the United States, or of the high seas, or while a student at any institution of learning, or while kept at public expense in any poorhouse or other asylum, or while confined in any public prison; nor shall any person be deemed to have ceased to be an inhabitant by reason of his absence on business of the state or of the United States, or on a visit, or on necessary private business.

(2.) *Elections.*

SEC. 6. All elections by the people shall be by ballot.

SEC. 7. No election shall continue longer than one day, except as otherwise provided for in this constitution.

SEC. 8. The general election of state and county officers, and of members of the general assembly shall, except as otherwise provided in this constitution, be held biennially on the Tuesday next following the first Monday in November, but the general assembly may by law fix a different day for such general election, two-thirds of all the members of each house consenting thereto.

SEC. 9. The general assembly shall immediately, and from time to time, provide by law for a complete and uniform registration by election districts of the names of qualified electors in this state; which registration shall be evidence of the qualification of all registered electors to vote at any election thereafter held; but no person shall be excluded from voting at any election, on account of not being registered, until the general assembly shall have passed an act of registration which shall have gone into effect. No person shall vote, except as provided in this constitution, unless his name shall have been registered as required by law at least ten days before the day of election. A new registration shall be made within sixty days next preceding the tenth day prior to every election; and after it shall have been made no person shall establish his right to vote by the fact that his name appears on any previous register. All laws for the registration of electors shall be uniform throughout the state.

SEC. 10. Any person who shall receive, or offer to receive, or pay, or offer, or promise to pay, or contribute, or offer or promise to contribute to another to be paid or used, any money or other valuable thing, as a compensation or reward for the giving or

withholding any vote at any election, or who shall make any promise to influence the giving or withholding of any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall thereby forfeit the right to vote at such election. Any elector whose right to vote shall be challenged for such cause at the election shall be required to swear or affirm that the matter of the challenge is untrue, before his vote shall be received.

SEC. 11. Any person convicted of wilful violation of the election laws or of false swearing under the provisions of any law enacted in pursuance of Section 10 of this article shall, in addition to any penalties provided by law, be deprived of the right of suffrage for a term of four years.

SEC. 12. Elections for city, ward, district and township officers shall be held annually on the second Tuesday of April.

SEC. 13. The secrecy of the ballot shall be preserved inviolate; and the general assembly shall pass suitable laws to secure the same. All ballots shall be printed, distributed and delivered at the polls to electors for voting, at public expense and under public supervision and at each polling place there shall be provided a sufficient number of booths or compartments, in which the electors singly shall prepare their ballots in secret.

SEC. 14. In the trial of contested elections and in proceedings for the investigations of elections, no person shall be permitted to withhold his testimony upon the ground that it may criminate himself or subject him to public infamy; but such testimony shall not afterwards be used against him in any judicial proceedings, except for perjury in giving such testimony.

SEC. 15. In all elections by the people under this constitution the person or persons who shall receive the highest number of votes shall be declared duly elected.

SEC. 16. No elector during the continuance of an election at which he is entitled to vote, and before he shall have voted thereat, and during the time necessary and convenient for his going to and returning from the same, shall be subject to arrest upon civil process, or be compelled to attend any court or judicial proceeding as suitor, juror or witness; or to work upon the public roads; or, except in time of war or public danger, to render military or naval service; nor shall any deduction from his wages or his salary be made by his employer on account of necessary time spent by him in attending at such election and in going to and returning therefrom.

SEC. 17. Every person who shall have given or offered a bribe, threat or reward to procure his election shall be disqualified from holding office during the term for which he shall have been elected.

## ARTICLE VI.

## ENUMERATION.

SECTION 1. The decennial census taken by the government of the United States, shall, unless otherwise provided by law, be adopted for all purposes as the enumeration of this state, but the general assembly shall, in case the census of the United States shall for any reason fail or be not published within a reasonable time after the taking of the same, or in case the general assembly shall for other reason deem it necessary, cause an enumeration of inhabitants of this state to be duly made.

## CHAP. II. Organizations.

## Title I.—Public Organizations.

## ARTICLE VII.

## THE MILITIA.

(1) *Militia Generally.*

SECTION 1. The militia of the state shall consist of all able-bodied male persons residing within the state, between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States or of this state. Persons whose religious tenets or conscientious scruples forbid them to bear arms shall not be compelled to do so in times of peace, but shall pay an equivalent for personal service.

(2.) *Active Militia.*

SEC. 2. The militia shall be enrolled, organized, uniformed, armed and disciplined in such manner as shall be provided by law, not incompatible with the Constitution or laws of the United States.

SEC. 3. The general assembly shall provide by law for the establishment of volunteer organizations of the several arms of the service, which shall be classed as active militia.

SEC. 4. All militia officers, except the adjutant general shall be appointed or elected in such manner as the general assembly shall prescribe.

SEC. 5. The commissioned officers of the militia shall be commissioned by the governor; and no commissioned officer shall be removed from office except by sentence of court-martial, pursuant to law.

SEC. 6. The militia forces shall, in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at musters, parades and election of officers, and in going to and returning from the same.



## ARTICLE VIII.

## SCHOOLS.

*(1.) Schools Generally.*

SECTION 1. The general assembly shall establish and maintain throughout the state a uniform system of free public schools.

SEC. 2. The public school system shall include primary and grammar schools, and such high schools, normal schools and technical schools as may be established by the general assembly or any district or municipal authority. The entire revenue derived from the state school fund shall be applied exclusively to the support of primary and grammar schools.

SEC. 3. In each school district one or more free public schools shall be maintained at least four months in every year.

SEC. 4. The public schools of the state shall be open to all children and youth between the ages of five and twenty-one years.

SEC. 5. In the public schools both sexes shall have equal rights and privileges. No distinction or classification of pupils shall ever be made on account of race or color.

SEC. 6. Every child of sufficient mental and physical ability may be required to attend the public schools between the ages of six and eighteen years, for a term of not less than three years, unless educated by other means.

SEC. 7. Neither the state, nor any county, township, school district, city, town or other municipality shall ever make any appropriation, or pay anything from any public fund or public moneys, or make any grant or donation of land, money or other property in aid of any school, seminary or other institution of learning, controlled wholly or in part by any church or sect. And any gift, devise or bequest to the state, or to any county, township, school district, city, town or other municipality, of lands, money or other property, to be used in support of any sectarian school or other sectarian institution of learning, shall be inoperative and void.

SEC. 8. No religious test or qualification shall ever be required of any person as a condition of admission into any public educational institution of the state, either as a teacher or student, and no sectarian doctrines shall ever be taught therein.

*(2.) Supervision of Schools.*

SEC. 9. The general supervision of the public schools of the state shall be vested in a board of education, the powers and duties of which shall be prescribed by law. The

superintendent of public instruction, the governor, and secretary of state and attorney-general shall constitute the board, of which the superintendent of public instruction shall be president.

SEC. 10. The first session of the board of education shall be held at the capital of the state within thirty days after the organization of the state government under this constitution.

SEC. 11. The superintendent of public instruction and one other shall constitute a quorum.

SEC. 12. In each county the county superintendent of schools shall exercise supervision over the public schools of the county and perform such other duties as may be prescribed by law.

(3.) *School Funds and School Lands.*

SEC. 13. The public school fund of the state shall consist of the proceeds of such lands as have heretofore been granted, or may hereafter be granted to the state by the United States government, known as school lands, and those granted in lieu thereof; lands acquired by gift or grant from any person or corporation under any law or grant of the United States government; and of all other grants of land or money made to the state from the United States government for general educational purposes, or where no other special purpose is indicated in the grant; all estates or shares of estates that may escheat to the state; all unclaimed shares and dividends of any corporation incorporated under the laws of the state, and all grants, gifts, devises and bequests made to the state for general educational purposes.

SEC. 14. The school fund shall be deemed a trust fund held by the state. The principal thereof shall forever remain inviolate. It may be increased but shall never be diminished, and the state shall make good all losses of any portion of the principal which may in any manner occur.

SEC. 15. The financial agents to receive the income of the school fund, and to look after the safety of the principal under such regulations as may be provided by law, shall, except as otherwise provided in this constitution, be the same officers who by law receive and control the revenues of the state and of the respective counties for other civil purposes.

SEC. 16. The school lands may be sold under such regulations, at such times and on such terms as may be prescribed by law.

SEC. 17. The moneys of the school fund, whether arising from the sale of lands or otherwise, shall be invested only in bonds of the United States, or of the State of North Dakota, or in first Mortgages on real estate situated within the State of North Dakota and worth in every case at least twice the amount for which it is mortgaged, or in bonds of school districts issued to raise money for the building of school houses. All moneys designated for in-

vestment in school district bonds shall be divided among the organized counties of the state as nearly as possible in proportion to their population of children between the ages of five and twenty-one years.

SEC. 18. The net annual income of the school fund shall be divided annually among the organized counties of the state as nearly as possible in proportion to their population of children between the ages of five and twenty-one years, to be disbursed in the support of free public schools or schools of the grade of primary or grammar schools in each school district. But no school district in which a free public school has not been maintained at least four months during the year for which distribution is made, shall be entitled to receive any portion of such income.

SEC. 19. All fines, penalties and license moneys arising under the general laws of the state shall belong and be paid over to the counties respectively where they were levied or imposed; and all fines, penalties and license moneys arising under the laws or ordinances of cities, towns or other municipalities, shall belong and be paid over to the municipalities respectively where they were levied or imposed.

(4.) *Taxes for School Purposes.*

SEC. 20. In case the income of the school fund shall be insufficient to sustain a free public school at least four months in every year in each school district in the state, the general assembly shall provide for supplying the deficiency from the general revenue of the state.

SEC. 21. The general assembly may provide for the levy and collection of an annual poll tax of not more than \$1.50 on each poll, which shall be applied to the support of the public schools in the counties in which it is levied and collected.

SEC. 22. Each county shall be required to raise annually by tax, for the support of free public schools therein, a sum not less than one-half of the amount apportioned to it for that year from the income of the school fund.

SEC. 23. The general assembly may by general law authorize school districts, by a vote of the qualified electors residing therein, to levy for school purposes a tax of not more than five mills on the dollar of assessed valuation in any one year.

**Title II—Private Organizations.**

**ARTICLE IX.**

**CORPORATIONS.**

SECTION 1. No charter of incorporation shall be granted, changed or amended by special law, except in the case of such municipal, charitable, educational, penal or reformatory corpora-

tions as may be under the control of the state; but the general assembly shall provide by general laws for the organizations of all corporations hereafter to be created, and any such law so passed shall be subject to future repeal or alteration.

SEC. 2 All existing charters or grants of special or exclusive privileges under which there shall not have been a bona fide organization and beginning of business at the time this constitution takes effect, shall thereafter be invalid.

SEC. 3. The general assembly shall have the power to alter, revoke or annul any charter of incorporation existing and revokable at the time of the taking effect of this constitution or any that may thereafter be created, whenever in its opinion it may be injurious to the citizens of the state, in such manner however that no injustice shall be done to the corporators or creditors.

SEC. 4. In all elections for directors or managers of a corporation each member or shareholder in person or by proxy may cast the whole number of his votes for one candidate or distribute them upon two or more candidates as he may prefer.

SEC. 5. No foreign corporation shall engage in business in this state, without having one or more known places of business, and an authorized agent or agents in the same upon whom process may be served.

SEC. 6. No corporation shall engage in any business other than that expressly authorized in its charter and the law.

SEC. 7. No corporation shall issue stock or bonds except for services performed or money and property actually received. The stock and bonded debt of corporations shall not be increased except in pursuance of a general law, nor without obtaining the consent of the persons holding the larger amount in value of the stock at a meeting to be held after thirty days' notice given in pursuance of law.

SEC. 8. The indebtedness of private corporations shall be secured by such means as may be prescribed by law, but in no case shall any stockholder be made by law individually liable for such indebtedness in any amount over or above the amount of stock owned by him.

SEC. 9. No corporation except for municipal, charitable, educational, penal or reformatory purposes and under the control of the state, or for the construction or operation of railroads, plank roads and canals, shall be created for a longer time than thirty years.

SEC. 10. All railroads and canals shall be public highways, and all railroads, canals, transportation and express companies shall be common carriers and subject to legislative control, and the general assembly shall have power to regulate and control by law the rates of charges for the transportation of passengers and

freight by such companies as common carriers from one point to another in the state; *provided*, however, that such common carriers shall be entitled to charge and receive just and reasonable compensation for such transportation of freight and passengers within the state; and the determination of what is a just and reasonable compensation shall be a judicial question to be determined by the courts.

SEC. 11. If any railroad, telegraph, express or other corporation organized under the laws of this state shall consolidate by sale or otherwise with any railroad, telegraph, express or other corporation organized under the laws of any other country, state or territory, or of the United States, it shall not thereby become a foreign corporation, but the courts of this state shall retain jurisdiction over that part of the corporate property within the limits of the state as if said consolidation had not taken place.

SEC. 12. No railroad corporation, express or other transportation company, or the lessees or managers thereof, shall consolidate its stock, property or franchises with any other railroad corporation, express or other transportation company owning or having under its control a parallel or competing line. And in no case shall any consolidation take place except upon public notice given at least sixty days to all stockholders, in such manner as may be provided by law.

SEC. 13. No street or other railroad shall be constructed within any city, town or other municipality or incorporated village without the consent of the local authorities having the control of the street or highway proposed to be occupied by such street or other railroad.

SEC. 14. Every railroad, telegraph, express or other corporation organized or doing business in this state, shall make an annual report to the auditor; and the general assembly shall pass laws to enforce the faithful and full performance of this duty, to the end that all the doings of such corporations may be publicly known.

SEC. 15. The term "corporation," as used in this article, shall not be understood as embracing municipalities or political divisions of the state unless otherwise expressly stated; but it shall be held and construed to include all associations and joint stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships.

SEC. 16. All corporations shall have the right to sue, and shall be subject to be sued in all courts in like cases as natural persons, subject to such regulations and conditions as may be prescribed by law.

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**Part III.—The Government.****CHAP I.—State Government.****Title I.—Frame of State Government.****ARTICLE X.****DISTRIBUTION OF POWERS OF GOVERNMENT.**

**SECTION 1.** The powers of the government of this state shall be divided into three distinct departments, the legislative, the executive and the judicial, each of which shall be confided to a separate magistracy.

**ARTICLE XI.****THE LEGISLATURE.***(1.) Division of the Legislature.*

**SECTION 1.** The legislative power shall be vested in a senate and house of representatives.

*(2.) Senate.*

**SEC. 2.** The senate shall be composed of not less than one-third, nor more than one-half of the number of representatives.

**SEC. 3.** Senators shall be elected for the term of four years, except as hereinafter provided.

**SEC. 4.** No person shall be a senator who is not a qualified elector in the district in which he may be chosen, and who shall not have attained the age of twenty-five years, and have been a resident of the state or territory for two years next preceding his election.

**SEC. 5.** At its first session after the adoption of this constitution, the general assembly shall fix the number of senators and divide the state into as many senatorial districts as there are senators, which districts, as nearly as may be, shall be equal to each other in the number of inhabitants entitled to representation. Each district shall be entitled to one senator and no more, and shall be composed of compact and contiguous territory; and no county shall be divided between two districts. The districts as thus ascertained and determined shall continue until changed by law.

**SEC. 6.** The senatorial districts shall be numbered consecutively from one upwards, according to the number of districts prescribed, and the senators shall be divided into two classes. Those elected in the districts designated by even numbers shall constitute one class, and those elected in districts designated by odd numbers shall constitute the other class. The senators of one class shall hold their offices for two years, those of the other class

shall hold their offices for four years, and the determination of the two classes shall be by lot, so that one-half the senators, as nearly as practicable, may be elected biennially.

SEC. 7. The senate, at the beginning and close of each regular session and at such other times as may be necessary, shall elect one of its members president *pro tempore*, who may take the place of the lieutenant-governor under rules prescribed by law. .

(3.) *House of Representatives.*

SEC. 8. The house of representatives shall be composed of not less than seventy-five nor more than one hundred and twenty members.

SEC. 9. Representatives shall be elected for the term of two years.

SEC. 10. No person shall be a representative who is not a qualified elector in the district for which he may be chosen, and who shall not have attained the age of twenty-one years and have been a resident of the state or territory for two years next preceding his election.

SEC. 11. At its first session after the adoption of this constitution the general assembly shall apportion the state as nearly as possible into representative districts composed of compact and contiguous territory according to the population, giving, however, one representative to each organized county.

SEC. 12. The house of representatives shall elect one of its members as speaker.

(4.) *Members of Both Houses.*

SEC. 13. No judge or clerk of any court, secretary of state, attorney general, recorder, sheriff or person holding any office of profit under this state, except offices in the militia, or the office of attorney at law, notary public or justice of the peace, and no person holding any office of honor or profit under any foreign government, or under the government of the United States, except postmasters whose annual compensation does not exceed the sum of three hundred dollars, shall hold any office in either branch of the general assembly or become a member thereof.

SEC. 14. No member of the general assembly expelled for corruption, and no person convicted of bribery, perjury or other infamous crime shall be eligible to the general assembly or to any office in either branch thereof.

SEC. 15. No member of the general assembly shall during the term for which he was elected be appointed or elected to any civil office in the state which shall have been created or the emoluments of which shall have been increased, during the term for which he was elected; nor shall any member receive any civil

appointment from the governor, or governor and senate, or from the general assembly, during the term for which he shall have been elected.

SEC. 16. If any person elected to either house of the general assembly shall offer or promise to give his vote or influence in favor of or against any measure or proposition pending or proposed to be introduced into the general assembly, in consideration or upon condition that any other person elected to the same general assembly will give, or will promise or assent to give, his vote or influence in favor of or against any other measure or proposition pending or proposed to be introduced into such general assembly, the person making such offer or promise shall be deemed guilty of solicitation of bribery. If any member of the general assembly shall give his vote or influence for or against any measure or proposition pending or proposed to be introduced into such general assembly, or offer, promise or assent so to do upon condition that any other member will give, or will promise or will assent to give, his vote or influence in favor of or against any other measure or proposition pending or proposed to be introduced into such general assembly, or in consideration that any other member hath given his vote or influence for or against any other measure or proposition in such general assembly, he shall be deemed guilty of bribery, and any member of the general assembly, or person elected thereto, who shall be guilty of either of such offenses, shall be expelled, and shall not thereafter be eligible to the general assembly; and, on the conviction thereof in the civil courts, shall be liable to such further penalty as may be prescribed by law.

SEC. 17. The term of service of the members of the general assembly shall begin on the first Tuesday in January next after their election.

SEC. 18. The members of the general assembly shall in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to or returning from the same. For words used in any speech or debate in either house, they shall not be questioned in any other place.

SEC. 19. A member who has a personal or private interest in any measure or bill proposed or pending before the general assembly, shall disclose the fact to the house of which he is a member, and shall not vote thereon without the consent of the house.

SEC. 20. The governor shall issue writs of election to fill such vacancies as may occur in either house of the general assembly.

SEC. 21. Each member of the general assembly shall receive as a compensation for his services — dollars for each day's



attendance during the session of the general assembly, and — cents for every mile of necessary travel in going to or returning from the place of meeting of the general assembly on the most usual route, and shall receive no other compensation, perquisite or allowance whatsoever.

(5.) *Each House Separately.*

SEC. 12. A majority of the members of each house shall constitute a quorum, but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such a manner and under such a penalty as may be prescribed by law.

SEC. 23. Each house shall be the judge of the election returns and qualifications of its own members.

SEC. 24. Each house shall have power to determine the rules of proceeding and punish its members or other persons for contempt or disorderly behavior in its presence; to protect its members against violence or offers of bribes or private solicitation, and with the concurrence of two-thirds to expel a member, and shall have all other powers necessary and usual in the general assembly of a free state. But no imprisonment by either house shall continue beyond thirty days. Punishment for contempt or disorderly behavior shall not bar a criminal prosecution for the same offense.

SEC. 25. Each house shall keep a journal of its proceedings, and the yeas and nays of any question shall be taken and entered on the journal at the request of one-sixth of those present.

SEC. 26. The sessions of each house and of the committee of the whole shall be open, unless the business is such as ought to be kept secret.

SEC. 27. Neither house shall, without the consent of the other, adjourn for more than three days, or to any other place than that in which the two houses shall be sitting, except in case of epidemic, pestilence or other great danger.

(6.) *Both Houses.*

SEC. 28. The senate and house of representatives jointly shall be designated as the general assembly of the state of North Dakota.

SEC. 29. The general assembly shall meet at the seat of government at 12 o'clock on the first Tuesday after the first Monday of January, in the year next following the election of members thereof.

SEC. 30. In all elections to be made by the general assembly, or either house thereof, the members shall vote *viva voce*, and their votes shall be entered in the journal.

SEC. 31. The sessions of the general assembly shall be biennial, except as otherwise provided in this constitution.

SEC. 32. No regular sessions of the general assembly shall exceed ninety days, except in case of impeachment.

(7.) *Passage of Laws.*

SEC. 33. Any bill may originate in either house of the general assembly, and a bill passed by one house may be amended by the other.

SEC. 34. No law shall be passed, except by a bill adopted by both houses, and no bill shall be so altered or amended on its passage through either house as to change its original purpose.

SEC. 35. The enacting clause of every law shall be as follows: Be it enacted by the general assembly of the State of North Dakota:

SEC. 36. No bill for the appropriation of money, except for the expenses of the government, shall be introduced after the twenty-fifth day of the session, except by unanimous consent of the house in which it is sought to be introduced.

SEC. 37. No bill shall embrace more than one subject, which shall be expressed in its title; but a bill which violates this provision shall be invalidated thereby only as to so much thereof as shall not be so expressed.

SEC. 38. The general appropriation bill shall embrace nothing but appropriations for the expenses of the executive, legislative and judicial departments of the state, interest on the public debt, and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.

SEC. 39. Every bill shall be read three several times, but the first and second readings, and these only, may be upon the same day, and the second reading may be by title of the bill, unless a reading at length be demanded. The first and third readings shall be at length. No legislative day shall be shorter than the natural day.

SEC. 40. No bill shall be considered or become a law unless referred to a committee, returned therefrom and printed for the use of the members.

SEC. 41. No bill shall be revised or amended or the provisions thereof extended or incorporated in any other bill by reference to its title only, but so much thereof as is revised, amended, extended or so incorporated shall be re-enacted and published at length.

SEC. 42. No bill shall become a law except by a vote of a majority of all the members present in each house, nor unless on its

final passage the vote be taken by yeas and nays and the names of those voting be entered on the journal.

SEC. 43. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the general assembly; immediately before such signing their titles shall be publicly read; and the fact of signing shall be at once entered upon the journal.

SEC. 44. No act of the general assembly shall take effect until sixty days after the close of the session, unless in case of emergency (which shall be expressed in the preamble or body of the act), the general assembly shall by a vote of two-thirds of all the members present in each house otherwise direct.

SEC. 45. The general assembly shall pass all laws necessary to carry into effect the provisions of this constitution.

(8.) *Special Limitations.*

Sec. 46. The general assembly shall not pass local or special laws in any of the following enumerated cases, that is to say:

For granting divorces.

Laying out, opening, altering or working roads or highways, vacating roads, town plats, streets, alleys, or public grounds.

Locating or changing county seats.

Regulating county or township affairs.

Regulating the practice of courts of justice.

Regulating the jurisdiction and duties of justices of the peace, police magistrates or constables.

Changing the rules of evidence in any trial or inquiry.

Providing for changes of venue in civil or criminal cases.

Declaring any person of age.

For limitation of civil actions, or giving effect to informal or invalid deeds.

Summoning or impaneling grand or petit juries.

Providing for the management of common schools.

Regulating the rate of interest on money.

The opening or conducting of any election or designating the place of voting.

The sale or mortgage of real estate belonging to minors or others under disability.

Chartering or licensing ferries or toll bridges or toll roads.

Remitting fines, penalties or forfeitures.

Creating, increasing or decreasing fees, percentage or allowances of public officers.

Changing the law of descent.

Granting to any corporation, association or individual the right to lay down railroad tracts, or any special or exclusive privilege, immunity or franchise whatever.

For the punishment of crimes.

Changing the names of persons or places.

For the assessment or collection of taxes.

Affecting estates of deceased persons, minors or other under legal disabilities.

Extending the time for the collection of taxes.

Refunding money paid into the state treasury.

Relinquishing or extinguishing in whole or in part the indebtedness, liability or obligation of any corporation or person to this state, or to any municipal corporation therein.

Legalizing, except as against the state, the unauthorized or invalid act of any officer.

Exempting property from taxation.

Restoring to citizenship persons convicted of infamous crimes.

Authorizing the creation, extension, or impairing of liens.

Creating offices, or prescribing the powers and duties of officers in counties, cities, townships, election or school districts, or authorizing the adoption or legitimation of children.

In all other cases, where a general law can be made applicable, no special law shall be enacted.

SEC. 47. No appropriation shall be made for [charitable, industrial, education or benevolent purposes, or for the benefit of any person, corporation or community not under the absolute control of the state, nor shall any appropriation be made or taxation authorized for the benefit of any denominational or sectarian school, institution or association.

SEC. 48. The general assembly shall not delegate to any special commission, private corporation, or association any power to make, supervise, or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes or perform any municipal functions whatever.

SEC. 49. The general assembly shall have no power to authorize lotteries or gift enterprises for any purpose and shall pass laws to prohibit the sale of lottery or gift enterprise tickets in this state.

## ARTICLE XII.

### THE EXECUTIVE.

#### (1.) *The Governor—Qualifications, Election and Term.*

Section 1. The chief executive power of this state shall be vested in a governor.

SEC. 2. The governor shall be at least thirty years of age at the time of his election; shall be a citizen of the United States, a qualified elector of this state, and shall have resided for at least two years next preceding his election within this state or the territory.

SEC. 3. The governor shall be chosen by the qualified electors of the state at the time and place of choosing members of the house of representatives.

SEC. 4. The returns of every election for governor shall (until otherwise provided by law) be sealed and sent by the returning officers to the seat of government, directed to the speaker of the house of representatives, who shall at the session of the general assembly next after the election, immediately upon the organization of the house, and before proceeding to other business, open and publish the same in the presence of both houses of the general assembly in joint convention.

SEC. 5. The person having the highest number of votes for governor shall be declared elected, but if two or more have an equal number of votes, and not less than the highest, the two houses of the general assembly at their next session shall forthwith, by joint vote, choose one of such persons for governor.

SEC. 6. Contested elections for governor shall be determined by both houses of the general assembly on joint ballot in such manner as shall be prescribed by law.

SEC. 7. The governor shall hold his office for two years, beginning on the first Tuesday in January next after his election, and until his successor is qualified.

SEC. 8. No person shall be elected governor for more than four years in any period of six years.

SEC. 9. The governor shall not hold any other office, civil or military, under this state, or the United States, or under any other power, during his term of service.

*His Powers.*

SEC. 10. The governor shall be commander-in-chief of the military and naval forces of the state, and shall have power to call out the same to execute the laws of the state, to suppress insurrections and repel invasion.

SEC. 11. The governor shall have power to remit fines and forfeitures, and to grant commutations of sentence, and pardons, except in cases of treason and impeachment; but no fine and no forfeiture shall be remitted, no pardon shall be granted, and no sentence commuted, except upon the recommendation in writing of a board of pardons composed of the lieutenant-governor, secretary of state and attorney-general, or of any two of the members of said board, after full hearing, upon due public notice, and in open session; and such recommendation, with the reasons therefor at length, shall be recorded and filed in the office of the secretary of state. The general assembly shall by law prescribe the sessions of said board of pardons and the manner in which application shall be made, and regulate the proceedings thereon; the written proceedings and decisions of said board and all papers used at any hearing shall be filed in the office of the secretary of state; the board of pardons may grant commutations and pardons either absolutely or upon such conditions as said board may deem proper.

**SEC. 12.** The governor shall have power to grant respites or reprieves for any time not exceeding ninety days, in all cases, except treason or conviction on impeachment, but such respite or reprieve shall not (in any case) extend beyond the end of the next session of the board of pardons.

**SEC. 13.** The governor may, upon a conviction of treason, suspend the execution of the sentence and report the same to the general assembly at its next session, when the general assembly may either pardon or commute the sentence, or grant a further reprieve.

**SEC. 14.** The governor shall nominate, and by and with the consent of a majority of the senators elected, appoint all officers whose offices are established by this constitution, or which may be created by law, and whose appointment, is not otherwise herein or by law provided for. In deliberating upon executive nominations the senate may sit with closed doors, but in acting thereupon it shall sit with open doors, and the vote shall be taken by ayes and noes to be entered upon the journal. No person after being rejected by the senate shall be again nominated for the same office at the same session unless at the request of the senate.

**SEC. 15.** The governor shall have power to remove for incompetency, neglect of duty, or malfeasance in office, any officer whom he may appoint, and who is not liable to impeachment, and he may declare the office vacant, and fill the same as herein provided in other cases of vacancy.

**SEC. 16.** Every bill, order, resolution or vote in which the concurrence of both houses may be necessary, except on the question of adjournment, or relating solely to the mode of transacting business of the two houses, shall be presented to the governor. If he approve, he shall sign it, and thereupon it shall become a law, but if he do not approve, he shall return it with his objections to the house in which it originated, which shall enter the objections at large upon its journal and proceed to reconsider the bill. If then two-thirds of the members elected to the house vote to pass the same, it shall be sent together with the objections to the other house by which it shall likewise be reconsidered, and if approved by two-thirds of the members elected to that house, it shall become a law (notwithstanding the objections of the governor), but in all such cases the vote of each house shall be determined by ayes and noes, to be entered upon the journal. Any such bill, order, resolution or vote which shall not be returned by the governor within five days (Sundays excepted), after it shall have been presented to him, shall become a law in like manner as if he had signed it, unless the general assembly shall by their adjournment prevent its return, in which case it shall become a law at the expiration of ten days after it shall have been presented to him, unless he shall file the same with his objections in the office of the secretary of state, and give notice thereof by public proclamation within said ten days.

SEC. 17. Every bill making appropriations of money out of the treasury shall specify the objects and purposes for which the same are made, and shall appropriate the several amounts in distinct items (and sections.) If any such bill presented to the governor contains several and distinct items of appropriations of money, the governor shall have the power to object to one or more of such items while approving the other portion of the bill, and the part or parts approved shall become law. In such a case he shall append to the bill at the time of signing it, a statement of the items to which he objects (with his objections), and no item so objected to shall take effect. If the general assembly be in session, he shall (within five days) transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered; if upon reconsideration, one or more of such items shall be approved by two-thirds of the members elected to each house, such items shall become part of the law, notwithstanding the objections of the governor. All the provisions of this article in relation to bills not approved by the governor shall apply in cases in which he shall withhold his approval from any item or items (or section or sections) contained in a bill appropriating money.

SEC. 18. He shall have power upon extraordinary occasions to summon the general assembly by proclamation, stating therein the purpose for which it is convened, but the general assembly when so convened shall transact no legislative business except that for which it is especially convened, except by consent of two-thirds of the members elected to each house. The governor shall also have power to call the senate together to act upon executive business.

SEC. 19. He shall have the power at any time to require information in writing, under oath or otherwise, from any executive officer or from any officer or manager of a state institution upon any subject relating to the duties, condition, management and expenses of the office or institution of any such officer or manager.

*His Duties.*

SEC. 20. The governor shall reside at the seat of government.

SEC. 21. The governor shall at the beginning of each session, by written message, give information to the general assembly of the condition of the state, and shall recommend such measures as he shall deem expedient.

SEC. 22. He shall, at the beginning of each regular session, present to the general assembly estimates of the amount of money required to be raised by taxation for all purposes; account to the general assembly as may be prescribed by law for all moneys received and paid out by him from any funds belonging to the state with the vouchers therefor; report to the general assembly each case of remission of fine, reprieve, commutation or pardon grant-

ed by him, stating the name of the convict, the crime of which he is convicted, the sentence and its date, and the date of the remission, reprieve, commutation or pardon, with the reasons for granting the same, and transmit to the general assembly the several reports and official recommendations that he shall have received since the last session from all state officers, officers of state institutions, or other officers, who may be required to report to him.

SEC. 23. All commissions shall be in the name and by authority of the state of North Dakota, shall be sealed with the great seal, shall be signed by the governor and countersigned by the secretary of state.

SEC. 24. The governor shall take care that the laws be faithfully executed.

SEC. 25. The governor shall be liable to impeachment for corruption or gross misconduct in office, gross immorality, habitual drunkenness or any high crime or misdemeanor, in the manner herein provided.

#### *Vacancies.*

SEC. 26. In case of the death, conviction on impeachment, conviction of felony or infamous crime, failure to qualify, absence from the state, removal from office, resignation or other disability of the governor, the powers, duties and emoluments of the office for the residue of the term, or until the disability shall be removed, shall devolve upon the lieutenant-governor.

SEC. 27. In case of the death, resignation or any disability designated in section 26 of both the governor and lieutenant-governor, the president of the senate pro tempore shall act as governor until the vacancy be filled or the disability of either the governor or lieutenant-governor shall be removed; if the president of the senate for any of the causes mentioned in case of the governor shall become incapable of performing the duties of governor, such duties shall devolve upon the speaker of the house of representatives.

#### *(2.) Lieutenant-Governor.*

SEC. 28. There shall be a lieutenant-governor who shall be chosen by the qualified electors of the state at every election for governor, and in the same manner and for the same term.

SEC. 29. Returns of the election of lieutenant-governor shall be made and published in the same manner as provided in case of the governor; contested elections of lieutenant-governor shall be determined by both houses of the general assembly on joint ballot in the manner prescribed by law.

SEC. 30. The provisions of sections 2, 7, 8, 9 and 25, as to the qualifications for the office of the governor, his term of office, his inability to hold other offices, and impeachment, shall apply also to the lieutenant-governor.



SEC. 31. The lieutenant-governor shall, by virtue of his office, be president of the senate, but he shall have only a casting vote therein. He shall also preside over the joint assembly of both houses and shall have a casting vote therein.

SEC. 32. In case of the absence, death, resignation, failure to qualify, refusal to serve, conviction on impeachment, or other disability of the lieutenant-governor, or when he shall hold the office of governor, the president of the senate *pro tempore* shall perform the duties of the lieutenant-governor until the vacancy be filled, or the lieutenant-governor return, or his disability be removed.

(3.) *Secretary of State.*

SEC. 33. There shall be a secretary of state who shall be chosen by the qualified electors of the state at every election for governor, and in the same manner and for the same term.

SEC. 34. He shall possess the same qualifications for office as the governor, except that he need not be more than twenty-five years of age when elected.

SEC. 35. He shall have the custody of the seal of the state. The seal of the territory of Dakota, as now used, shall be the great seal of the state until otherwise provided by law.

[Describe the Seal.]

SEC. 36. The secretary of state shall keep a true record of the official acts of the governor, and he shall lay the same, together with all papers relating thereto, before either house of the general assembly whenever required so to do, unless the governor shall certify that in his opinion the public interest requires that they be withheld; and he shall authenticate all the publications of the law.

SEC. 37. He shall, by virtue of his office, be state librarian, and perform such other duties as may be prescribed for him in the constitution.

SEC. 38. The secretary of state shall, before he enters upon the business of his office, give bonds, with sufficient sureties, in a reasonable sum, to be provided by law, for the performance of his duties.

(4.) *State Auditor.*

SEC. 39. There shall be a state auditor, who shall be chosen by the qualified electors of the state, at every election for governor, and in the same manner and for the same term.

SEC. 40. He shall possess the same qualifications for office as the secretary of state.

SEC. 41. The state auditor shall prescribe the mode of keeping and rendering all public accounts, superintend the prompt col-

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lection of all taxes and revenue, preserve all public accounts, and audit all claims against the state; draw warrants upon the public treasury in favor of the public creditors, and have the general superintendence of the fiscal affairs of the state.

(5.) *State Treasurer.*

SEC. 42. There shall be a state treasurer, who shall be chosen by the qualified electors of the state, at every election for governor, and in the same manner and for the same term.

SEC. 43. He shall possess the same qualifications for office, and shall give the same bond as the secretary of state.

SEC. 44. The treasurer shall receive all moneys, funds, bonds or other securities belonging to the state in such manner as may be provided by law, and disburse the public moneys only as may be directed by law. He shall pay no warrant or order for the disbursement of public moneys except upon the order of the state auditor, in such manner as shall be prescribed by law and perform such other duties as may be prescribed for him in the constitution, or by law.

(6.) *Attorney General.*

SEC. 45. There shall be an attorney-general, who shall be chosen by the qualified electors of the state, at every election for governor, and in the same manner, and for the same term.

SEC. 46. He shall possess the same qualifications for office as the secretary of state, and shall have been admitted to practice in the supreme court of this state or the territory.

SEC. 47. The attorney-general shall be the law officer of the state; he shall prosecute and defend on the part of the state, during his term of service, all cases brought by or against the state, or wherein the state is interested.

SEC. 48. He shall, whenever required, give legal advice in writing to either house of the general assembly on any matter pending before it, and to the governor and to any other officer, or board, of the executive department, on any matter connected with the business of the executive department.

SEC. 49. He shall, upon proper occasions, in behalf of the state, inquire into the charter rights of all private corporations and seek a judicial forfeiture of such charter, unless otherwise provided by law.

(7.) *Superintendent of Public Instruction.*

SEC. 50. There shall be a superintendent of public instruction, who shall be chosen by the qualified electors of the state at every election for governor, in the same manner and for the same term.

SEC. 51. He shall possess the same qualifications for office as the governor.

SEC. 52. He shall, under the direction of the board of education, have the supervision of all matters relating to the public schools and public instruction, and of all public buildings devoted to educational purposes except the state university; he shall be president of the board of education and perform such other duties as may be prescribed for him in the constitution.

(8.) *Commissioner of Public Lands.*

SEC. 53. There shall be a commissioner of public lands, who shall be chosen by the qualified electors of the state at every election for governor, and in the same manner and for the same term.

SEC. 54. He shall possess the same qualifications for office as the secretary of state.

SEC. 55. He shall have supervision of the land office of the state, at the seat of government, and be custodian of the land titles of the state.

SEC. 56. He shall organize at the seat of government a bureau of statistics of labor and industrial resources, and by virtue of his office shall be commissioner of the bureau. The general assembly shall provide for periodic reports by such commissioner upon the agricultural, mining, timber and other business interests of the state as may be prescribed by law, and shall further prescribe the duties of such commissioner.

(9.) *State Executive Boards.*

SEC. 57. The board of public lands and property shall be composed of the secretary of state, attorney-general, state treasurer and commissioner of public lands. Said board shall have supervision of all the buildings, grounds and lands of the state, except school lands and buildings for educational purposes, and except buildings the supervision of which is otherwise in this constitution provided for; and the members of said board shall perform such other duties and be subject to such other regulations as may be prescribed by law.

SEC. 58. The board of school lands and funds shall be composed of the secretary of state, state treasurer, attorney-general and superintendent of public instruction and commissioner of public lands. Said board shall, under the direction of the general assembly, have power to lease and sell the lands, and shall manage the funds, set apart for educational purposes, except for the state university.

SEC. 59. The board of claims shall be composed of the attorney-general, state auditor and state treasurer. Such board shall have power to examine all claims against the state, except claims for salaries, compensation and fees of officers fixed by law, and shall perform such other duties connected with said claims as may

be prescribed by law. No claim against the state, except for salaries and the compensation and fees of officers fixed by law, shall be passed upon by the general assembly without first having been considered and acted upon by said board.

SEC. 60. The board of health shall be composed of the attorney-general and of two skilled physicians appointed by the governor with the consent of the senate, each, for a term of four years. They shall have the supervision, under direction of the general assembly, of the quarantine of the state, and of all matters affecting the public health; and shall recommend to the general assembly such public sanitary measures as they shall deem expedient, and shall perform such other duties relating to the public health as the general assembly may prescribe. County boards of health shall be established which shall be subject to the supervision of the state board to such an extent as the general assembly may prescribe.

SEC. 61. The general assembly may provide that such officers of the executive department mentioned in this article as they may designate, excepting such members of the board of health, as are appointed by the governor, shall perform the duties of commissioners of the sinking fund and of a board of public works, subject to such rules and regulations as shall be prescribed. The executive officers hereafter designated in the constitution shall compose the boards of education and of equalization of taxes.

SEC. 62. The coal lands belonging to the state shall never be sold, but the general assembly may, by general laws, provide for leasing the same. The words "coal lands" shall include lands bearing lignite coal.

(10.) *Adjutant-General.*

SEC. 63. There shall be an adjutant-general, who shall be appointed by the governor.

SEC. 64. He shall hold his office for two years, and until his successor is qualified, except as herein provided.

SEC. 65. He shall, unless absent under orders on duty, discharge the duties of his office at the seat of government.

SEC. 66. He shall be responsible for the safe-keeping of the military records, relics and banners of the state, and perform such other duties and receive such compensation as may be prescribed in the constitution and by law.

(11.) *General Provisions as to Executive Officers.*

SEC. 67. Returns of the election of each of the officers to be chosen by the qualified electors of the state pursuant to this article shall be made, published and declared in the same manner provided in case of the governor.

SEC. 68. Contested elections of each of said officers, except the governor and lieutenant-governor, shall be determined in the manner prescribed by law.

SEC. 69. All state executive officers named in this article, except the lieutenant-governor, shall reside at the seat of government, where they shall keep the books, records and papers pertaining to their respective offices. All state executive officers shall perform the duties required by them by the constitution and by law.

SEC. 70. The state auditor and the state treasurer shall ever year, at a time the general assembly may fix, make a full and complete report to the governor, showing all receipts and disbursements of revenue, all claims audited and paid by the state by items, and all taxes collected and paid into the treasury, and from what sources, and they shall make reports oftener on any matter pertaining to their respective offices if required by the governor or by the general assembly.

SEC. 71. All officers of the executive department, except the governor and lieutenant-governor, and all state executive boards and all officers and managers of state institutions shall at least twenty days preceding each regular session of the general assembly make full and complete reports of their actions to the governor, who shall transmit the same to the general assembly.

SEC. 72. All officers of the executive department, and all state executive boards, and all officers and managers of public institutions of the state shall keep an account of all public moneys received by them severally from all sources and for every service, and all public moneys disbursed by them severally, and shall make a semi-annual report thereof to the governor and severally account for public money received and paid by them respectively, with the vouchers therefor, to the general assembly in the manner prescribed by law.

SEC. 73. The governor, and officers named in this article shall (until otherwise provided by law) receive, quarterly, compensation per annum, as follows:

The governor.....  
 The secretary of state.....  
 The attorney-general.....  
 The state auditor.....  
 The state treasurer.....  
 Commissioner of public lands.....  
 Superintendent of public instruction.....  
 Each member of the board of health appointed by  
 the governor.....  
 The lieutenant-governor shall receive twice the com-  
 pensation of a senator.

SEC. 74. No additional allowance, emolument, or perquisite shall be paid to either of the officers named in section 73, on any account, but the general assembly may provide for payment of mileage to any officer named in this article for necessary travel within the state, in the performance of his official duty. Such officers shall have such stenographic or other clerks as may be provided by law.

## ARTICLE XIII.

### THE JUDICIARY.

#### (1.) *Distribution of Judicial Powers.*

SECTION 1. The judicial power of the state, except as in this constitution otherwise provided, shall be vested in a court for the trial of impeachments, a supreme court, district courts, county courts, justices of the peace and such courts as may be created by law for cities and incorporated towns.

#### (2.) *Court of Impeachment.*

SEC. 2. The house of representatives shall have the sole power of impeachment. The concurrence of a majority of the members elected shall be necessary to direct an impeachment.

SEC. 3. The governor and all civil state officers shall be liable to impeachment for gross misconduct in office, corruption in office, gross immorality, habitual drunkenness, or any high crime or misdemeanor.

SEC. 4. No person shall be tried on impeachment unless he shall have been served with an attested copy thereof at least twenty days previous to the day set for trial.

SEC. 5. All impeachments shall be tried by the senate, and, when sitting for that purpose, the senators shall take an oath or affirmation to do justice according to law and evidence. The chief justice shall preside unless he is impeached or otherwise disqualified, when the senate shall select a presiding officer.

SEC. 6. No person shall be convicted without the concurrence of two-thirds of the senators elected.

SEC. 7. Judgment shall not extend further than removal from office and disqualification to hold and enjoy any office of honor, profit or trust under this state; but the person impeached, whether convicted or acquitted, shall nevertheless be liable to prosecution and punishment according to law.

#### (3.) *Supreme Court.*

SEC. 8. The supreme court, except as otherwise provided in this constitution, shall have appellate jurisdiction only, which shall be co-extensive with the state. It shall have a general superintending control over all inferior courts, under such regulations and limitations as may be prescribed by law.

SEC. 9. The supreme court and the judges thereof shall have power to issue writs of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari*, injunction, prohibition and other original and remedial writs, with authority to hear and determine the same. And when a jury may be required by the supreme court to try an issue of fact, the court shall have power to summon a jury to try such question in that court.

SEC. 10. At least two terms of the supreme court shall be held each year at the seat of government.

SEC. 11. The supreme court shall consist of a chief justice, to be elected as such, and two associate justices, all of whom shall be elected by the qualified electors of the state at large.

SEC. 12. The number of said judges may, after five years from the admission of the state under this constitution, be increased by law to not exceeding five.

SEC. 13. A majority of the judges of the supreme court shall be necessary to form a quorum or to pronounce a decision, but one or more of said judges may adjourn the court.

SEC. 14. Each judge of the supreme court shall be, at the time of his election, at least thirty years of age; he shall have resided in this state or the territory for two years next preceding his election, and shall be a member of the bar in this state or the territory of at least five years' standing.

SEC. 15. The term of office of judges of the supreme court, except as otherwise provided by the constitution, shall be six years.

SEC. 16. The judges of the supreme court shall, immediately after the first election under this constitution, be classified by lot, so that one shall hold office for two years, one for four years and one for six years. And thereafter one-third, as nearly as may be, shall be elected every second year. The lot shall be drawn by the judges at the seat of government, and they shall cause the result thereof to be certified to the secretary of state, who shall file the same in his office.

SEC. 17. There shall be a clerk of the supreme court elected by the qualified electors of the state, who shall hold office for four years, subject to removal by the court. His compensation shall be fixed by law, and his duties shall be prescribed by law and by the rules of the supreme court.

SEC. 18. The supreme court shall appoint one reporter of its decisions, who shall hold office for four years, subject to removal by the court. His compensation shall be fixed by law, and his duties shall be prescribed by law and by the rules of the supreme court.

SEC. 19. The general assembly shall make provision for the publication and distribution of the decisions of the supreme court, and for the sale of the published volumes thereof. No

private person or corporation shall be allowed to secure any copyright in such decisions, and if any copyrights are secured they shall enure wholly to the benefit of the state.

SEC. 20. When a judgement or decree is reversed or affirmed by the supreme court, every point fairly arising upon the record of the case shall be considered and decided, and the reasons therefor shall be concisely stated in writing, signed by the judges concurring, filled in the office of the clerk of the supreme court and preserved with a record of the case. Any judge dissenting therefrom may give the reasons of his dissent in writing over his signature.

SEC. 21. It shall be the duty of the court to prepare a syllabus of the points adjudicated in each case which shall be concurred in by a majority of the judges thereof, and it shall be prefixed to the published report of the case.

SEC. 22. The supreme court shall have power to make rules for the government of said court and the other courts of the state, rules of practice and rules for admission to the bar of the courts of the state.

SEC. 23. Except as otherwise provided in this constitution, no duties other than those prescribed herein shall be imposed by law upon the supreme court or any of the judges thereof, and none of the judges shall exercise any power of appointment.

SEC. 24. No judge of the supreme court (or of any court of record) shall sit in review of a decision made by him, or in any case wherein he may be interested, or where either of the parties may be connected with him by affinity or consanguinity within such degree as may be prescribed by law, or where he shall have been counsel in the case.

SEC. 25. Whenever all or a majority of the judges of the supreme court shall from any cause be disqualified from sitting in any case in said court, the governor shall, with the advice and consent of a majority of the senators elected, assign judges of the district court not disqualified in the manner aforesaid, who shall sit in such case in place of such disqualified judges, with all the powers and duties of judges of the supreme court.

SEC. 26. The judges of the supreme court shall give their opinion upon important questions of law and upon solemn occasions, when required by the governor, the senate or the house of representatives; and all such opinions shall be published in connection with the reported decisions of said court.

#### (4.) *District Courts.*

SEC. 27. The state shall be divided by the general assembly into convenient districts not to exceed six in number, unless the number be increased by a vote of two-thirds of the members elected to each house of the general assembly.



SEC. 28. The district courts shall have original jurisdiction in all civil cases, both at law and in equity; and in criminal cases, of all felonies and misdemeanors; and such appellate jurisdiction as may be conferred by law. Such jurisdiction as to value and amount and grade of offense may be limited by law.

SEC. 29. The district courts and judges thereof shall have power to issue writs of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari*, injunction, prohibition and other original and remedial writs, with authority to hear and determine the same.

SEC. 30. The process of the district courts shall extend to all parts of the state, but all action for the recovery of the possession of real property, quieting the title thereto, or enforcing liens thereon, shall be begun in the county in which the property or any part thereof affected by such action is situated.

SEC. 31. The time of holding courts within said judicial districts shall be as provided by law, but at least two terms of the district court shall be held annually in each county, except in such counties as may be attached for judicial purposes to another county wherein such courts are held. Special terms of said courts may be held under such regulations as may be prescribed by law. A judge of one district may hold the court in another district when convenience or the public interest may demand it.

SEC. 32. In each judicial district one judge of the district court shall be elected by the qualified electors thereof; his term of office shall be six years. Each judge of the district court shall be at the time of his election at least twenty-five years of age, shall have resided in this state or the territory for two years next preceding his election, and shall be a practicing lawyer of the supreme or district courts of this state or the territory of at least four years' standing.

SEC. 33. The judges of the district court shall, immediately after the first election under this constitution, be classified by lot, so that two shall hold office for two years, two for four years, and two for six years. And thereafter one-third as nearly as may be shall be elected every second year. The lot shall be drawn at the same time, and the result shall be certified and filed in the same way as is prescribed for judges of the supreme court.

SEC. 34. Writs of error and appeals may be allowed from the decisions of the said district courts to the supreme court under such regulations as may be prescribed by law.

SEC. 35. There shall be a clerk of the district court in each county wherein a term is held, who shall be elected by the qualified electors of his county at the same time and for the same term as herein provided for the judges of the district court. His duties and compensation shall be prescribed by law.

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(5.) *County Courts.*

SEC. 36. County courts shall have original jurisdiction within their respective counties in all matters of probate and guardianship, and in the settlement of estates of deceased persons, and such other civil and criminal jurisdiction as may be conferred by law; but such courts shall not have jurisdiction in any case where the debt, damage, claim or value of property involved shall exceed \$500, except in matters of probate, guardianship and the estates of deceased persons. County courts shall have such jurisdiction in criminal matters not of the grade of felony as the general assembly may prescribe.

SEC. 37. There shall be elected in each organized county a judge of the county court of said county, whose term of office shall be two years. His qualifications for office shall be the same as those of a judge of a district court, except that he shall in addition be a resident of the county at the time of his election; his duties, except as prescribed in this constitution, may be determined by law. The general assembly may fix different salaries for the county judges in the several counties of the state.

SEC. 38. There shall be a clerk of the county court in each county who shall be elected by the qualified electors thereof. The duties of such clerk shall be prescribed by law.

SEC. 39. Appeals shall be allowed in all cases from county courts to district courts in such manner and under such regulations as may be prescribed by law.

SEC. 40. County courts shall always be open for the transaction of business, except on legal holidays and non-judicial days.

SEC. 41. Any case pending in the county court which the county judge may be disqualified to try, shall be transferred to the district court of the same county for trial.

(6.) *Justices of the Peace.*

SEC. 42. Justices of the peace shall have such jurisdiction as may be conferred by law in civil cases wherein the value of the property or the amount in controversy does not exceed the sum of \$100, and in criminal cases below the grade of felony.

SEC. 43. There shall be in each organized township or district of each county in the state at least two justices of the peace, who shall be elected by the qualified electors of the several townships or districts, and who shall hold office for two years.

SEC. 44. Appeals shall be allowed from county and justices' courts to the district courts in all cases, except as it may be otherwise provided by law, in such manner and under such regulations as may be prescribed by law.

(7.) *Municipal Courts.*

SEC. 45. The general assembly may provide such police and

municipal courts and magistrates for cities and towns, as may be deemed necessary from time to time, who shall have jurisdiction in all cases arising under the ordinances of such cities and towns respectively, and such police magistrates may also be constituted *ex-officio* justices of the peace for their respective counties.

(8.) *General Provisions.*

SEC. 46. The supreme, district and county courts shall be courts of record.

SEC. 47. All process shall run in the name of "The State of North Dakota," and all prosecutions shall be conducted in the name and by the authority of the same. All indictments shall conclude "against the peace and dignity of the state of North Dakota."

SEC. 48. There shall be but one form of civil action, and law and equity shall be administered in the same action.

SEC. 49. The power of the courts to punish for contempt shall be limited by acts of the general assembly.

SEC. 50. No judge of the supreme or district courts shall be elected to any other than a judicial office, or be eligible thereto, during the term for which he was elected such judge.

SEC. 51. No judge or clerk of any court of record shall, during his term of service, practice law in any of the courts of this state, or of the United States; and no judge shall give advice in regard to any case which may come before him.

SEC. 52. Until the general assembly shall provide by law for fixing the terms of the supreme, district and county courts, the judges of the supreme, district and county courts respectively shall fix the terms thereof.

SEC. 53. The general assembly shall provide for the election of all judicial officers at a time different from the election of other officers.

SEC. 54. Judicial officers shall receive such salaries and shall have such stenographic or other clerks as may be provided by law.

ARTICLE XIV.

PUBLIC OFFICERS GENERALLY.

(1.) *Qualifications for Office.*

SECTION 1. No person shall be elected or appointed to any office in this state, civil or military, who is not a citizen of the United States and does not possess the qualifications of an elector.

SEC. 2. No member of congress or person holding or exercising any office of profit or trust under the United States or either

of them, or under any foreign power, shall hold or exercise any office of profit or trust under this state except as herein provided.

SEC. 3. No person holding or exercising any civil office of profit or trust under this state shall hold or exercise any other such office except that of attorney at law, justice of the peace, notary public or commissioner of deeds, unless otherwise specially provided herein.

SEC. 4. No religious test or property qualification shall be required for the holding of any office of profit or trust under this state.

SEC. 5. Making profit out of public moneys or using the same for any purpose not authorized by law by any officer of the state or member of the general assembly, shall be a misdemeanor, and shall be punished as may be provided by law; but part of such punishment shall be disqualification to hold any office of profit or trust in this state.

(2.) *Terms and Oaths of Office.*

SEC. 6. The terms of office of all state, county and judicial officers not elected or appointed to fill a vacancy, and of members of the general assembly shall (except as otherwise provided) begin on the first Tuesday of January next succeeding their election.

SEC. 7. No law shall extend or abridge the term of any public officer after his election or appointment.

SEC. 8. Every person holding any office, provided for in this constitution shall continue to hold such office until his successor is duly qualified, unless removed from office according to law.

SEC. 9. The general assembly, in cases not provided for in this constitution, shall prescribe by general laws the terms of office, powers, duties and compensation of all public officers and agents, and the manner in which they shall be elected, appointed and removed; but no person shall be eligible to the office of state treasurer, county treasurer or sheriff for more than two terms in succession.

SEC. 10. Members of the general assembly, and all other officers provided for in this constitution, before they enter upon their official duties, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the state of North Dakota and will faithfully discharge the duties of according to law and to the best of my ability."

(3.) *Removals and Vacancies.*

SEC. 11. All officers not liable to impeachment shall be subject to removal for neglect of duty, misconduct or malfeasance in office, in such manner as may be provided by law.

SEC. 12. All executive officers and judges of courts of record may be removed by the governor on the address of two-thirds of the members elected to each house of the general assembly, for wilful neglect of duty, incompetency, mental or physical inability, habitual drunkenness, oppression in office or any reasonable cause which shall not be sufficient ground for impeachment. The cause or causes for which such removal shall be required shall be stated at length in such address and entered on the journal of each house. The officer or judge against whom the general assembly may be about to proceed shall receive notice thereof accompanied by a copy of the causes alleged for his removal at least twenty days before the day on which either house shall act thereon, and he shall be admitted to a hearing in his own defense, before any vote for such address shall be taken, and in all cases the votes shall be taken by yeas and nays and entered in the journal of each house respectively.

SEC. 13. In all offices created by this constitution a permanent vacancy shall be deemed to exist by the death or resignation of the incumbent or officer elect, or his removal from office for cause, or removal from the state, failure to qualify or file the proper official bond, conviction on impeachment, or of a felony, or being lawfully adjudged of unsound mind.

SEC. 14. In case of a permanent vacancy during the recess of the senate, in any office elective by the people, it shall be the duty of the governor, except as herein otherwise provided, to fill the same by appointment, until the next general election. If the vacancy in such elective office shall occur during the session of the senate, such appointment shall be made by and with the consent of a majority of the senators elected. But in every such case of a vacancy in an elective office a person shall be chosen to said office at the next general election that occurs more than thirty days after the vacancy has taken place, and the person chosen shall hold office for the remainder of the unexpired term of the office so vacated.

SEC. 15. In case of a permanent vacancy during the recess of the senate, in any non-elective office, the governor shall fill such vacancy by making a temporary appointment, until a nominee to such office shall either be confirmed or rejected by the senate at its next session. If such appointment is made during the recess of the senate, the appointee or some other person to fill such vacancy shall be nominated to the senate during the first ten days of its next session; if rejected, the office shall immediately become vacant, and the governor shall, without delay, make further nominations until a confirmation takes place. The person so confirmed shall hold office for the remainder of the unexpired term of the office so vacated. No person after being rejected by the senate shall be again nominated for the same office at the same session unless at request of the senate.

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(4) *Official Bribery.*

SEC. 16. Any person who shall, directly or indirectly, offer, give or promise any money or thing of value, testimonial, privilege or personal advantage to any executive or judicial officer or member of the general assembly, to influence him in the performance of any of his public or official duties, shall be guilty of bribery and be punished in such manner as shall be provided by law.

SEC. 17. Any member of the general assembly or executive or judicial officer who shall solicit, demand or receive or consent to receive, directly or indirectly, for himself or for another, from any company, corporation or person, any money, office, appointment, employment, testimonial, reward, thing of value or enjoyment, or of personal advantage, or promise thereof for his vote or official influence or official action, or for withholding the same, or with any understanding, expressed or implied, that his vote, official influence or official action shall be in any way influenced thereby, or who shall solicit or demand or receive any such money or other advantage, matter or thing aforesaid for another, as the consideration of his own vote or official influence or official action, or for withholding the same, or shall give or withhold, or promise to give or withhold his vote, official influence or action in consideration of the payment or promise of such money, advantage, matter or thing to another, shall be held guilty of bribery or solicitation of bribery as the case may be, within the meaning of this constitution, and shall incur the disabilities provided for such offense, with a forfeiture of the office he may hold, and such other additional punishment as is or shall be prescribed by law.

(5.) *Residence, Salaries and Fees.*

SEC. 18. The sureties upon the official bonds of all state officers shall be residents of the state, and shall have within the state sufficient property, not exempt from sale under execution, attachment or other process of any court, to make good their bonds; and the sureties upon the official bonds of all county officers shall reside within the counties where such officers reside, and shall have sufficient property therein, not exempt from such sale, to make good their bonds.

SEC. 19. All civil officers shall reside during their terms of office within the state, and all district, county, township, city or town officers within their districts, counties, townships, cities or towns; and they shall keep their offices at such places as may be required by the constitution or by law.

SEC. 20. No law shall increase or diminish the salary or emoluments of any public officer after his election or appointment, nor shall any extra compensation be given to any public officer, servant, employee agent or contractor, after his services shall have been rendered or his contract made.

SEC. 21. No officer of the state, executive or judicial, or of any county, city or town shall receive to his own use, for the performance of any official duties, any fees, costs, perquisites or compensation other than his salary as prescribed by law; and all fees payable by law for any official service shall be paid, when received by such officer, into the state, county, city or town treasury, respectively.

Title II.—State Government.

## ARTICLE XV.

### TAXATION AND REVENUE.

SECTION 1. The rate of taxation shall be uniform and taxes shall be levied upon such property as the general assembly shall prescribe.

SE . 2. The general assembly shall not levy in any one year a greater rate of taxation than one per centum on the value of the taxable property within this state, except to repel invasion or suppress insurrection.

SEC. 3. Property belonging to persons residing without the limits of this state, shall never be taxed at a higher rate than similar property belonging to persons residing within the state.

SEC. 4. The general assembly shall have power to levy excise taxes upon particular articles and occupations, which shall be uniform as to the class of persons and property upon which they operate.

SEC. 5. The general assembly may also impose income taxes; but no income shall be taxed when the property from which the income is derived is taxed.

SEC. 6. The stock of any company or corporation shall not be taxed without making a proportionate deduction for any property of that company or corporation which has been taxed.

SEC. 7. The general assembly shall never levy a poll tax except for school purposes as in this constitution provided.

SEC. 8. Property, except as herein provided, shall be assessed in such manner as may be prescribed by law.

SEC. 9. There shall be a state board of equalization, consisting of the governor, secretary of state, state auditor, state treaaurer and attorney general. The duty of the state board of equalization shall be to adjust and equalize the valuation of real and personal property among the several counties of the state. Such board shall also perform such other duties relating to taxation as may be prescribed by law.

SEC. 10. The general assembly shall have no power to release or discharge any county, township, district, city or town from their proportionate share of taxes levied for state purposes.

## ARTICLE XVI.

## APPROPRIATIONS AND EXPENDITURES.

SECTION 1. No money shall be drawn from the treasury of the state, except in pursuance of a specific appropriation made by law; and upon a warrant drawn by the proper officer; and no appropriation shall be for a longer term than one year.

SEC. 2. A regular statement and account of the receipts and expenditures of all public moneys shall be prepared and published annually in such manner as shall be provided by law.

SEC. 3. The treasurer shall keep a separate account of each fund in his hands, and shall at the end of each quarter of the fiscal year report to the governor in writing, under oath, the amount of all moneys in his hands to the credit of every such fund and the place or places where such moneys are kept or deposited, and the number and amount of every warrant paid or redeemed by him during the quarter. Swearing falsely to any such report shall be deemed perjury. The governor shall cause every such report to be immediately published in at least one newspaper printed at the seat of government, and otherwise as the general assembly may require.

SEC. 4. The general assembly may provide further regulations for the safe keeping and management of the public funds in the hands of the treasurer, but notwithstanding any such regulation the treasurer and his sureties shall in all cases be held responsible therefor.

SEC. 5. The state shall never assume or pay the debt or liability of any county, township, district, municipality, corporation or individual whatever, or any part thereof, unless such debt or liability shall have been created to repel invasion, suppress insurrection or to provide for the public defense.

SEC. 6. The state shall never become a subscriber to or shareholder in any corporation, company or association, except as such ownership may accrue to the state by escheat, forfeiture, bequest or otherwise by operation of law.

SEC. 7. The fiscal year shall begin on the first day of July of each year.

## ARTICLE XVII.

## STATE INDEBTEDNESS.

SECTION 1. For the purpose of defraying extraordinary expenses and making public improvements or to meet casual deficits of revenue the state may contract debts, never to exceed, with all previous debts and liabilities, in the aggregate hundred thousand dollars; and no greater indebtedness shall be incurred except for the purpose of repelling invasion, suppress insurrection, or defending the state or United States in war.



SEC. 2. To provide for the payment of any debt contracted by the state the general assembly shall establish and maintain a sinking fund sufficient to pay the accruing interest on such debt and to reduce annually the principal by a sum equal to one part thereof. And the sinking fund shall not be used or applied otherwise than in the extinguishment of the public debt.

SEC. 3. The state shall never lend or pledge its faith or credit, directly or indirectly, in any manner to, or in aid of, any person, company or corporation, public or private, for any amount or purpose whatever, or become responsible for any debt, contract or liability of any such person, company or corporation.

SEC. 4. In no case shall the general assembly have the power to issue treasury warrants, treasury notes or paper of any description intended to circulate as money.

## ARTICLE XVIII.

### PUBLIC WORKS.

SECTION 1. The general assembly may, if it is deemed necessary or proper, provide a well regulated system of irrigation for the purpose of developing the agricultural, mining and industrial resources of the state, and provide for the organization and prescribe the duties of a board of public works to take charge of and manage the same.

## CHAP. II.—Local Governments.

### Title I—Frame of Local Governments.

## ARTICLE XIX.

### COUNTIES.

SECTION 1. The several counties of the territory of Dakota, as they shall exist at the time of its admission as a state into the Union, are hereby declared to be the counties of the state until otherwise established or changed by law.

SEC. 2. No territory shall be taken from or added to any organized county until a proposition for such change shall have been submitted to the electors of the county or counties from which it is proposed to take territory or to which it is proposed to add territory, and until the proposition shall have received in each a majority of the votes cast by qualified electors.

SEC. 3. No county now established shall be reduced to an area of less than                    hundred square miles, or to a population of less than                    thousand. And no new county shall be formed containing less than                    hundred square miles, and                    thousand inhabitants.

SEC. 4. New or unorganized counties may, for the purposes of administration, be temporarily annexed to such other county or counties as may be most convenient.

SEC. 5. Whenever territory is taken from any county or counties and attached to another, the county to which such territory is attached shall be liable to pay its ratable proportion of all the then existing liabilities of the county or counties from which such part is taken, less the same ratable proportion of the value of the county buildings and property of the county or counties from which such territory is taken.

SEC. 6. In any county where the county seat has not been fixed, the question of its place shall be submitted to the electors of the county at a general election. The place receiving the majority of all votes cast by qualified electors shall be the county seat. If no place receives a majority, the two places which have the greatest number of votes shall be submitted to the electors of the county, and the one of those places then receiving the greater number of votes shall be the county seat. But in the formation of new counties, the county seat may be fixed temporarily by the general assembly.

SEC. 7. No county seat shall be changed until a proposition designating the place to which the removal is proposed, shall have been submitted to the electors of the county and shall have received two-thirds of the votes cast by qualified electors. No person shall vote on such a proposition who shall not have resided in the county for six months, and in the election precinct for ninety days, next preceding the election. A proposition to change the location of the county seat shall not again be submitted for five years.

SEC. 8. The general assembly shall provide by general laws for such other county officers as may be deemed necessary, and shall prescribe their respective terms of office, duties and compensation.

## ARTICLE XX.

### TOWNSHIPS.

SECTION 1. Each county of the state shall be divided into townships of convenient number and size.

SEC. 2. The general assembly shall provide by general laws for such township officers as may be deemed necessary, and shall prescribe their respective terms of office, duties and compensation.

## ARTICLE XXI.

### SCHOOL DISTRICTS.

SECTION 1. Each county of the state shall be divided into a convenient number of school districts. But no school district shall be formed containing less than twenty-five inhabitants.

SEC. 2. In each school district there shall be elected annually one school trustee, who shall hold his office three years. But at

the first election three trustees shall be chosen, whose terms shall be one, two and three years respectively. Vacancies shall be filled by appointment by the board of county commissioners, and the appointee shall hold his office for the unexpired portion of the term.

## ARTICLE XXII.

### MUNICIPALITIES.

SECTION 1. The general assembly shall provide by general laws for the organization of cities and towns; and shall also make provision by general law whereby any city or other municipality incorporated by special or local law may elect to become subject to the general law relating to municipalities.

SEC. 2. The general assembly may vest the corporate authorities of cities, and other municipalities, with power to make local improvements by special assessment or special taxation of adjacent property or otherwise. For all other corporate purposes all municipal corporations may be vested with authority to assess and collect taxes, but such taxes shall be uniform.

## ARTICLE XXIII.

### LOCAL OFFICERS GENERALLY.

SECTION 1. The provisions of this article, so far as applicable, shall extend to county, township, school district, municipal and all other local officers as well as to state officers.

### Title II. Support of Local Government.

## ARTICLE XXIV.

### LOCAL TAXATION AND INDEBTEDNESS.

SECTION 1. Counties, townships, school districts and municipalities shall have power to levy taxes and borrow money to such an extent and in such manner as is provided in this constitution or may be allowed by general laws consistent therewith; but the general assembly shall limit the power by general law.

SEC. 2. No city, town or other municipality shall levy a greater rate of taxation in any one year on the value of the taxable property therein than [one] per centum.

SEC. 3. Every county, city and town which shall have a funded debt shall create a sinking fund inviolably pledged for the payment thereof.

SEC. 4. Private property shall not be taken or sold for the corporate debts of municipalities.

SEC. 5. There shall be in each county of the state a county board of equalization consisting of the board of county commis-

sioners. The duty of the county boards of equalization shall be to adjust and equalize the valuation of real and personal property within their respective counties. Each board shall also perform such other duties relating to taxation as may be prescribed by law.

**Part IV.—Alteration of the Constitution.**

## ARTICLE XXV.

### AMENDMENTS.

SECTION 1. Any amendment to this constitution may be proposed in either house of the general assembly, and if the same shall be voted for by two-thirds of all the members elected to each house, such proposed amendment, together with the yeas and nays of each house thereon, shall be entered in full on the respective journals; and the secretary of state shall cause the said amendment to be published in full in at least one newspaper in each county (if such there be), weekly for three months previous to the next general election for members to the general assembly; and if in the general assembly next afterwards chosen, such proposed amendment shall be agreed to by a majority of the members elected to each house, the secretary of state shall again cause the same to be published in the manner aforesaid, and at the next election aforesaid the said amendment shall be submitted to the qualified electors of the state for their approval or rejection, and if approved by a majority of the qualified electors of the state, shall become part of the constitution. Where more than one amendment is submitted at the same election, they shall be so submitted as to enable the electors to vote on each amendment separately.

## ARTICLE XXVI.

### REVISION.

SECTION 1. The general assembly may at any time by a vote of two-thirds of the members elected to each house recommend to the electors of the state to vote at the next general election for or against a convention to revise, alter and amend the constitution, and if a majority of the electors voting on the question shall vote for a convention, the general assembly shall at its next session provide for the calling thereof.

SEC. 2. The number of members of the convention shall be twice that of the senate, and they shall be elected as provided by law.

SEC. 3. The general assembly shall, in the act calling the convention, designate the day, hour and place of its meeting, fix the pay of its members and officers, and provide for the payment of the same, together with the necessary expenses of the convention.

SEC. 4. Before proceeding to business the members shall take

an oath to support the constitution of the United States and of the state of North Dakota, and to faithfully discharge their duties as members of the convention.

SEC. 5. The qualification of members shall be the same as of members of the senate; and vacancies occurring shall be filled in the manner provided for filling vacancies in the senate.

SEC. 6. Said convention shall meet within three months after such election, and prepare such revisions, alterations or amendments of the constitution as may be deemed necessary, which shall be submitted to the electors for their ratification or rejection at an election appointed by the convention for that purpose not less than two nor more than six months after the adjournment thereof; and unless so submitted and approved by a majority of the qualified electors of the state, no such revision, alteration or amendment shall take effect.

SEC. 7. This constitution may be amended and revised only in pursuance of the provisions of this article.

## ARTICLE XXVII.

### PUBLICATION AND INTERPRETATION.

SECTION 1. The general assembly shall provide for the editing, and for the publication in an independent volume, of this constitution as soon as it shall take effect, and whenever it shall be altered or amended, and shall cause to be published in the same volume the Declaration of Independence and the Constitution of the United States.

SEC. 2. The headings and marginal notes of this constitution shall not be binding in the interpretation or construction thereof.

### Part V.—Schedule.

SECTION 1. That no inconvenience may arise from a change of territorial government to state government, it is declared that all writs, actions, prosecutions, claims and rights of individuals and of bodies corporate shall continue as if no change of government had taken place, and all processes which may, before the organization of the judicial department under this constitution, be issued under the authority of the territory of Dakota shall be as valid as if issued in the name of the state.

SEC. 2. All laws now in force in the territory of Dakota, which are not repugnant to this constitution, shall remain in force until they expire by their own limitations or be altered or repealed.

SEC. 3. All fines, penalties, forfeitures and escheats accruing to the territory of Dakota shall accrue to the use of the state.

SEC. 4. All recognizances, bonds, obligations or other undertakings heretofore taken, or which may be taken before the organization of the judicial department under this constitution, shall remain valid, and shall pass over to, and may be prosecuted in the name of, the state; all bonds, obligations or other undertakings executed to this territory, or to any officer in his official capacity, shall pass over to the proper state authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly; all criminal prosecutions and penal actions which

have arisen, or may arise before the organization of the judicial department, under this constitution, or which shall then be pending, may be prosecuted to judgment and execution in the name of the state.

SEC. 5. All property, real and personal, and credits, claims and choses in action belonging to the territory of North Dakota at the time of the adoption of this constitution, shall be vested in and become the property of the state of North Dakota. And all outstanding obligations of the territory of North Dakota at the time of the adoption of this constitution, shall be assumed by the state.

SEC. 6. The territorial assembly shall pass all necessary preliminary laws to carry into effect the provisions of the constitution.

SEC. 7. Whenever any two of the judges of the supreme court of the state, elected under the provisions of this constitution, shall have qualified in their offices, the causes then pending in the supreme court of the territory, and the papers, records and proceedings of said court and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the supreme court of the state, except as otherwise provided in the enabling act of congress, and until so superseded the supreme court of the territory and the judges thereof shall continue, with like powers and jurisdiction, as if this constitution had not been adopted. Whenever the judge of the district court of any district elected under the provisions of this constitution shall have qualified in his office, the several causes then pending in the district court of the territory within any county in such district, and the records, papers and proceedings of said district court; and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the district court of the state for such county, except as provided in the enabling act of congress, and until the district courts of this territory shall be superseded in the manner aforesaid, the said district courts and the judges thereof shall continue with the same jurisdiction and power to be exercised in the same judicial districts respectively as heretofore constituted under the laws of the territory.

SEC. 8. Until otherwise provided by law, the seals now in use in the supreme and district courts of this territory are hereby declared to be the seals of the supreme and district courts respectively of the state.

SEC. 9. Whenever this constitution shall go into effect, the books, records and papers, and proceedings of the probate court in each county, and all causes and matters of administration and other matters pending therein, shall pass into the jurisdiction and possession of the county court of the same county, and the said county court shall proceed to final decree or judgment, order or other determination in the said several matters and causes as the said probate court might have done if this constitution had not been adopted. And until the election and qualification of the judges of the county courts provided for in this constitution, the probate judges shall act as the judges of the county courts within their respective counties, and the seal of the probate court in each county shall be the seal of the county court therein, until the said court shall have procured a proper seal.

SEC. 10. The terms "probate court" or "probate judge" whenever occurring in the statutes of the territory shall, after this constitution goes into effect, be held to apply to the county court or county judge.

SEC. 11. Any person may be a senator or representative in the general assembly who is an elector in the territory at the time of the ratification of this constitution.

SEC. 12. All territorial, county and precinct officers, who may be in office at the time this constitution takes effect, whether holding their offices under the authority of the United States or of the territory, shall hold and exercise their respective offices, and perform the duties thereof as prescribed in this constitution, until their successors shall

be elected and qualified in accordance with the provisions of this constitution, and official bonds of all such officers shall continue in full force and effect as though this constitution had not been adopted; and such officers for their term of service, under this constitution, shall receive the same salaries and compensation as is by this constitution or by the laws of the territory provided for like officers.

SEC. 13. This constitution shall take effect and be in full force immediately upon the admission of the territory as a state.

SEC. 14. Immediately upon the adjournment of this convention the governor of the territory, or in case of his absence or failure to act, the secretary of the territory, or in case of his absence or failure to act, the president of the constitutional convention shall issue a proclamation, which shall be published and a copy thereof mailed to the chairman of the board of county commissioners of each county, calling an election by the people on the first Tuesday in October, 1889, of all the state and district officers created and made elective by this constitution.

SEC. 15. The board of commissioners of the several counties shall thereupon order such election for said day, and shall cause notice thereof to be given in the manner and for the length of time provided by the laws of the territory in cases of general elections for delegates to congress and county and other officers. Every qualified elector of the territory, at the date of said election, shall be entitled to vote thereat. Said election shall be conducted in all respects in the same manner as provided by the laws of the territory for general elections, and the returns for all state and district officers, and members of the general assembly, shall be made to the canvassing board hereinafter provided for.

SEC. 16. The governor, secretary and chief justice or a majority of them, shall constitute a board of canvassers to canvass the vote of such elections for all state and district officers and members of the general assembly. The said board shall assemble at the seat of government of the territory on the fifteenth day after the day of such election (or on the following day if such day fall on Sunday), and proceed to canvass the votes on the adoption of this constitution and for all state and district officers and members of the general assembly in the manner provided by the laws of the territory for canvassing the vote for delegate to congress, and they shall issue certificates of election to the persons found to be elected to said offices severally, and shall make and file with the secretary of the territory an abstract certified by them, of the number of votes cast for or against the adoption of the constitution, and for each person for each of said offices and of the total number of votes cast in each county.

SEC. 17. All officers elected at such election shall, within sixty days after the date of the executive proclamation admitting the state of North Dakota into the union, take the oath required by this constitution, and give the same bond required by the law of the territory to be given in case of like officers of the territory and districts, and shall thereupon enter upon the duties of their respective offices; but the general assembly may require by law all such officers to give other or further bonds as a condition of their continuance in office.

SEC. 18. All officers elected at said election shall hold their offices until the general assembly shall provide by law, in accordance with this constitution, for the election of their successors, and until such successors shall be elected and qualified.

SEC. 19. The governor elect of the state immediately upon his qualifying and entering upon the duties of his office shall issue his proclamation convening the general assembly of the state at the seat of government, on a day to be named in said proclamation, and which shall not be less than thirty nor more than sixty days after the date of such proclamation. But if this constitution shall be ratified by the people at an election to be held as herein provided, the General Assembly of North Dakota, shall assemble at the capital in the city of Bismarck, at 12 o'clock, noon, on Wednesday, the 30th day of October, A. D., 1889, and organize and proceed to elect two Senators of the United

States for the State of North Dakota, one for the full term and one for the short term to be designated at the time of their election respectively, and at said election the two persons who shall receive a majority of all the votes cast by said senators and representatives, shall be elected such United States senators for such designated terms respectively, and the presiding officers of the senate and house shall each certify the election to the Governor and Secretary of the State of North Dakota, and the Governor and Secretary of State shall certify the elections of such senators as provided by law.

SEC. 20. All the existing archives, records and books belong to the Territory of Dakota shall belong to and be a part of the public records of the state of North Dakota and be deposited at the seat of government of the said state with the secretary of state.

SEC. 21. This constitution is formed and the state of North Dakota asks to be admitted into the Union on an equal footing with the original states, on the condition and faith of the terms and propositions stated and specified in act of congress approved February 22, A. D. 1889, authorizing the people of North Dakota to form a constitution and state government, the people of the state of North Dakota hereby accepting the conditions in said act specified.

Which was read the first time.

Mr. Stevens moved to adjourn.

Which motion prevailed, and the Convention adjourned.

J. G. HAMILTON,  
Chief Clerk.

MONDAY, July 22, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

The President presiding.

Prayer was offered by the Rev. C. F. Bollinger.

The roll was called, and all members absent were excused.

Mr. Purcell moved that all standing committees be required to make reports by Thursday next.

Which motion prevailed.

Mr. Williams introduced the following resolution:

*Resolved*, That the official reporter be required to furnish to the chief clerk of the convention each day, as near as possible, the manuscript of his report of the proceedings of the preceding day.

*Resolved*, That whenever a member of the Convention shall be of the opinion that he is incorrectly reported, he may apply to the reporter for a correction. In case of disagreement between them, the matter may be brought before the Convention for disposition. It is hereby made the duty of the chief clerk of the Convention to make a full and complete index of the journal and debates, and it shall be a part of the duties of the chief clerk and official reporter to revise the proofs of the printed matter as they come from the printer, and each member of the Convention shall, if he so desires, be afforded the opportunity of examining the proof sheets of any portion of the debates for the purpose of making such corrections only as referred to above. The whole work shall be completed and the volumes bound within sixty (60) days after the rising of the Convention.



Further consideration was postponed until July 23.

Mr. Parsons of Morton, introduced the following resolution and moved its adoption.

*Resolved*, That the Constitution of South Dakota as appears in Long's Legislative Hand Book, (a copy of which is upon the desk of each member) be considered as introduced for adoption by this Convention, without being printed in the files or journal.

Which resolution was adopted.

Mr. Colton moved that File No. 44 be indefinitely postponed.

Which motion prevailed.

Mr. Richardson moved that File No. 46 be recommitted to the Committee on Revenue and Taxation.

Which motion prevailed.

Mr. Moer moved that the vote by which File No. 44 was indefinitely postponed be reconsidered.

Which motion prevailed.

Mr. Moer moved that File No. 44 be referred back to the Committee on Revenue and Taxation.

Which motion prevailed.

Mr. Robertson introduced the following resolution and moved its adoption:

*Resolved*, That the several standing committees hereafter report and refer back to the Convention no articles, unless the same be deemed of use to other committees.

Mr. Moer moved that the resolution be laid on the table.

Which motion prevailed.

#### FIRST READING OF ARTICLES, RESOLUTIONS, ETC.

Mr. Appleton introduced File No. 107—

#### SCHOOL AND SCHOOL LANDS.

SECTION 1. After six months from the assembling of the first Legislature the lands granted to the state by the United States for the use of public schools may be sold upon the following conditions and no other. Not more than one-fourth of all such lands shall be sold within the first five years and no more than two-thirds within the first ten years after the title thereto is vested in the state.

SEC. 2. The commissioner of school and public lands, the county auditor and the county superintendent of schools of the counties severally, shall constitute boards of appraisal and shall appraise all school lands to be sold within the several counties.

SEC. 3. No lands shall be sold for less than the appraised value, and in no case for less than ten dollars an acre; all sales shall be at public auction to the highest bidder after sixty days' advertisement of the same in a newspaper of general circulation in the vicinity of the lands to be sold.

SEC. 4. All sales shall be conducted by the commissioner of school and public lands as may be prescribed by law, and all lands shall be sold at the county seat of the county in which the lands to be sold are situated.

Which was read the first time.

Mr. Harris introduced File No. 108—

## LEGISLATIVE APPORTIONMENT.

**SECTION 1.** In the apportionment of the State of North Dakota for legislative purposes every organized county shall have at least one member of the house of representatives.

**SECTION 2.** Until otherwise provided by law the Senate shall consist of 35 members, and the House of Representatives of 70 members and the Senatorial and Representative districts shall be formed and the senators and representatives shall be apportioned as follows:

## SENATORIAL APPORTIONMENT.

- District 1 shall consist of Pembina county and be entitled to two senators.  
 District 2 shall consist of Cavalier county and be entitled to one senator.  
 District 3 shall consist of Towner, Benson and Pierce counties and be entitled to one senator  
 District 4 shall consist of Bottineau, Rolette, Renville and Mountraile, and be entitled to one senator.  
 District 5 shall consist of Ward, McHenry, McLean, Church, Sheridan and Stevens, and be entitled to one senator.  
 District 6 shall consist of Walsh county and be entitled to three senators.  
 District 7 shall consist of Ramsey county and be entitled to one senator.  
 District 8 shall consist of Grand Forks county and be entitled to three senators.  
 District 9 shall consist of Nelson county and be entitled to one senator.  
 District 10 shall consist of Foster and Eddy counties and be entitled to one senator.  
 District 11 shall consist of Traill county and be entitled to two senators.  
 District 12 shall consist of Steele and Griggs counties and be entitled to one senator.  
 District 13 shall consist of Cass county and be entitled to four senators.  
 District 14 shall consist of Barnes county and be entitled to one senator.  
 District 15 shall consist of Stutsman county and be entitled to one senator.  
 District 16 shall consist of Wells and Kidder counties and be entitled to one senator.  
 District 17 shall consist of Morton, Oliver, Mercer, Garfield, Williams, Wallace, Flannery and Buford counties and be entitled to one senator.  
 District 18 shall consist of Stark, Billings, Hettinger, Bowman, Dunn, McKenzie and Allred counties and be entitled to one senator.  
 District 19 shall consist of Richland county and be entitled to two senators.  
 District 20 shall consist of Ransom county and be entitled to one senator.  
 District 21 shall consist of Sargent county and be entitled to one senator.  
 District 22 shall consist of LaMoure county and be entitled to one senator.  
 District 23 shall consist of Dickey county and be entitled to one senator.  
 District 24 shall consist of Emmons, Logan and McIntosh counties and be entitled to one senator.  
 District 25 shall consist of Burleigh county and be entitled to one senator.

## REPRESENTATIVE APPORTIONMENT.

- District 1 shall consist of Pembina county, and be entitled to four representatives.  
 District 2 shall consist of Cavalier county, and be entitled to two representatives.  
 District 3 shall consist of Towner county, and be entitled to one representative.  
 District 4 shall consist of Rolette county, and be entitled to one representative.  
 District 5 shall consist of Bottineau county, and be entitled to one representative.  
 District 6 shall consist of Walsh county, and be entitled to five representatives.

District 7 shall consist of Ramsey county, and be entitled to two representatives.

District 8 shall consist of Benson county, and be entitled to one representative.

District 9 shall consist of Pierce county, and be entitled to one representative.

District 10 shall consist of McHenry county, and be entitled to one representative.

District 11 shall consist of Ward county, and be entitled to one representative.

District 12 shall consist of Grand Forks county, and be entitled to six representatives.

District 13 shall consist of Nelson county, and be entitled to one representative.

District 14 shall consist of Eddy county, and be entitled to one representative.

District 15 shall consist of Foster county, and be entitled to one representative.

District 16 shall consist of Wells county, and be entitled to one representative.

District 17 shall consist of McLean county, and be entitled to one representative.

District 18 shall consist of Traill county, and be entitled to three representatives.

District 19 shall consist of Steele county, and be entitled to one representative.

District 20 shall consist of Griggs county, and be entitled to one representative.

District 21 shall consist of Cass county, and be entitled to seven representatives.

District 22 shall consist of Barnes county, and be entitled to three representatives.

District 23 shall consist of Stutsman county, and be entitled to two representatives.

District 24 shall consist of Kidder county, and be entitled to one representative.

District 25 shall consist of Burleigh county, and be entitled to two representatives.

District 26 shall consist of Morton county, and be entitled to two representatives.

District 27 shall consist of Oliver county, and be entitled to one representative.

District 28 shall consist of Mercer county, and be entitled to one representative.

District 29 shall consist of Stark county, and be entitled to one representative.

District 30 shall consist of Billings county, and be entitled to one representative.

District 31 shall consist of Richland county, and be entitled to three representatives.

District 32 shall consist of Ransom county, and be entitled to two representatives.

District 33 shall consist of Sargent county, and be entitled to two representatives.

District 34 shall consist of LaMoure county, and be entitled to one representative.

District 35 shall consist of Dickey county, and be entitled to two representatives.

District 36 shall consist of Logan county, and be entitled to one representative.

District 37 shall consist of McIntosh county, and be entitled to one representative.

District 38 shall consist of Emmons county, and be entitled to one representative.

Which was read the first time.

Mr. Lauder moved that the rules be suspended and that articles be read by title only.

Which motion prevailed.

Mr. Lauder introduced File No. 109—

SECTION 1. The Legislature shall protect by law from forced sale, a certain portion of the homestead and other property of all heads of families.

SEC. 2. The holding of large tracts of land, uncultivated and unimproved, by individuals or corporations, is against the public interest, and should be discouraged by all means not inconsistent with the rights of private property.

SEC. 3. Land belonging to the state, which is suitable for cultivation, shall be granted only to actual settlers, and in quantities not exceeding three hundred and twenty acres to each settler, under such conditions as may be prescribed by law.

Which was read the first time.

Also File No. 110—

#### SCHEDULE.

That no inconvenience may arise by reason of the change in the form of government, it is hereby ordained and declared:

SECTION 1. That all laws in force at the time of the adoption of this Constitution shall so far as not inconsistent therewith, remain of the same force as if this Constitution had not been adopted, until they expire by their own limitation or are repealed by the Legislature; and all rights actions, prosecutions, claims and contracts of the territory of Dakota, counties, individuals or bodies politic, (not inconsistent therewith) shall continue as if the form of government had not been changed and this Constitution adopted.

SEC. 2. That all recognizances, obligations and all other instruments entered into or executed before the admission of the state, to the Territory of Dakota, or to any county, school district, or other municipality therein, or any officer thereof, and all fines, taxes, penalties, forfeitures due or owing to the territory of Dakota, or any such counties, school district or municipality or officer, and all writs, actions, causes of action, except as hereinafter otherwise provided, shall continue and remain unaffected by the change of the form of government. All indictments which shall have been found or may hereafter be found, all informations which shall have been filed or may hereafter be filed for any criminal offense committed before this Constitution takes effect, may be proceeded upon as if no change had taken place except as otherwise provided in the Constitution.

SEC. 3. That all property, real and personal, and all moneys, credits, claims and choses in action belonging to the territory of Dakota at the time of the adoption of this Constitution, shall become vested in and become the property of the state of North Dakota.

SEC. 4. The Legislature of the state of North Dakota, shall pass all necessary laws to carry into effect the provisions of the Constitution.

SEC. 5. Whenever any two of the judges of the supreme court of the state elected or appointed under the provisions of this Constitution, shall have qualified in their office the causes theretofore pending in the supreme court of the territory of Dakota, taken to said court on appeal or otherwise from any county which shall be included in, and form a part of the state of North Dakota, the

papers, records and proceedings of said court pertaining to said causes, shall pass into the jurisdiction and possession of the supreme court of the state of North Dakota; and until so superseded the supreme court of the territory, and the judges thereof shall continue with like powers and jurisdiction as if this Constitution had not been adopted. Whenever the judge of the district court of any district, elected or appointed under the provisions of this Constitution shall have qualified in his office the several causes theretofore pending in the district court of the territory of Dakota within any county in such district, the records, papers and proceedings of said district court, and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the district court for such county, and until the district courts of the territory shall be organized in manner aforesaid, said district courts and the judges thereof, shall continue with the same jurisdiction and powers, to be exercised in the same judicial district respectfully as heretofore constituted under the laws of the territory of Dakota.

SEC. 6. The terms of office of the several judges of the supreme and district courts as elected under this Constitution, shall commence on the — day of ———— A. D., 1889. Before entering upon the duties of their respective offices, the several judges of the supreme and district courts shall severally subscribe the oath of office as provided by law, which said oath of office after having been taken and subscribed as aforesaid shall be filed in the office of the secretary of state.

SEC. 7. All officers, civil and military, now holding office by election or appointment in this territory under the authority of the United States or of this territory, shall continue to hold and exercise their respective office and appointment until superseded under this Constitution or the laws of the state of North Dakota.

SEC. 8. It is hereby made the duty of the Legislature at its first session, to provide for the payment of all debts and indebtedness authorized to be incurred by the Constitutional Convention of North Dakota which shall remain unpaid after the appropriation made by Congress if the same shall have been exhausted.

SEC. 9. The provisions of this Constitution shall be in force from the day on which the President of the United States shall issue his proclamation declaring the state of North Dakota into the Union; and the governor, secretary, auditor, superintendent of public instruction and all other officers of the territory of Dakota shall continue to discharge the duties of their respective offices after the admission of the state into the Union and until the qualification of the officers elected or appointed under said government. And said officers for the time they may serve shall receive the same compensation as the state officers shall by law be paid for like services.

Which was read the first time.

Also File No. 111—

SECTION 1. All property in the state, not exempt under the laws of the United States, shall be taxed in proportion to its value, to be ascertained as provided by law. The word property as used in this article and section is hereby declared to include moneys, credits, bonds, stocks, dues, franchises and all other matters and things, real, personal and mixed capable of private ownership; *Provided*, that growing crops, property used exclusively for religious or charitable purposes, and such as may belong to the United States, this state or to any county or other municipal corporation within the state shall be exempt from taxation. The Legislature may provide, except in case of credits secured by lien upon real estate for a deduction from credits of debts due to *bona fide* residents of this state.

SEC. 2. Land and the improvements thereon shall be separately assessed; cultivated and uncultivated land, of the same quality and similarly situated, shall be assessed at the same value.

SEC. 3. A mortgage upon real estate or a deed of trust thereof or contract or other obligation by which a debt is secured thereon shall for the purposes

of assessment and taxation be deemed and treated as an interest in the real estate affected thereby, except as to railroad and other *quasi*, public corporations; in case of debts so secured, the value of the real estate affected by such mortgage, deed of trust, contract or obligation, less the value of such security, shall be assessed and taxed to the owner of the real estate, and the value of such security shall be assessed and taxed to the owner thereof in the county, city, or district in which the real estate affected thereby is situated. The taxes so levied shall be a lien upon such real estate and security and may be paid by either party to such security; if the owner of such real estate shall pay the tax so levied upon such security it shall constitute a payment thereon and to the extent of such payment a full discharge thereof; *provided*, that if any such security or indebtedness shall be paid by any such debtor or debtors after assessment, and before the tax levy the amount of such levy may likewise be retained by such debtor or debtors, and shall be computed according to the tax levy of the preceding year.

SEC. 4. Every contract hereafter made, by which any debtor is obligated to pay any tax or assessment on money loaned, or on any mortgage, deed of trust, or other lien, shall, as to any interest specified therein, and as to such tax or assessment, be null and void.

SEC. 5. The power of taxation shall never be surrendered or suspended by any grant or contract to which the state or any county, or other municipal corporation, shall be a party.

SEC. 6. The Legislature shall have the power to provide by law for the payment of all taxes on real estate by installments.

SEC. 7. All property, except as hereinafter in this section provided, shall be assessed in the county, city, city and county, township, town, village or district in the manner prescribed by law. The franchise, road way, road bed, rails and rolling stock of all railroads operated in this state, shall be assessed by the state board of equalization at their actual value, and the same shall be apportioned to the counties, cities, towns, townships and districts in which said roads are located, in proportion to the number of miles of railway laid in such counties, cities, towns, townships and districts; *provided*, that for the purposes of assessment and taxation, said railroads shall not be valued at more than seven thousand dollars per mile, nor less than three thousand dollars per mile.

SEC. 8. Income taxes may be assessed to and collected from persons, corporations, joint stock associations or companies, resident or doing business in this state, or any one or more of them, in such cases and amounts and in such manner as may be prescribed by law.

SEC. 9. The Legislature may provide for the levy, collection and disposition of an annual poll tax of not more than three dollars on every male inhabitant of this state over twenty-one and under sixty years of age, except paupers, idiots, insane persons and Indians not taxed.

SEC. 10. The Legislature shall pass all laws necessary to carry out the provisions of this article.

Which was read the first time.

Mr. Sandager introduced File No. 112—

It shall be the duty of the legislature to provide by law for the deduction from salaries of public officers who may be guilty of neglect of duty.

Which was read the first time.

Also File No. 113—

Every person who shall be found guilty of giving or receiving any money or thing of value for votes or influence in elections shall be forever thereafter disfranchised.

Which was read the first time.

Also File No. 114—

The Legislature shall have power to pass all laws necessary to prevent the formation of combinations of capital or business in the nature of trusts.

Which was read the first time.

Also File No. 115---

No law shall ever be passed exempting under a gross-earning system or otherwise the property of any corporation, except such is actually used in the operation of the business of said corporation.

Which was read the first time.

Also File No. 116---

The Legislature shall provide by law for exemptions, but in no case shall such exemptions include more than a homestead not exceeding in value one thousand dollars and personal property, not to exceed in value five hundred dollars.

Which was read the first time.

Also File No. 117—

Nothing shall be exempt from distress and sale for taxes, except wearing apparel and household goods, and all liens created after the adoption of this Constitution shall be subject to any legal tax that may be levied on any property on which such tax is levied.

Which was read the first time.

Mr. Bennett, (by request of W. J. Anderson, of Grand Forks,) introduced File No. 118—

The Legislature may provide that at the general election immediately preceding the expiration of the term of a United States Senator from this state, the electors may by ballot express their preference for some person for the office of United States senator. The votes cast for such candidates shall be canvassed and returned in the same manner as for state officers.

Which was read the first time.

Mr. Williams introduced File No. 119--

*Resolved*, That among the permanent officers of the state of North Dakota there shall be a commissioner of agriculture, to be appointed by the Governor every two years; the salary of said official to be — dollars per annum.

Which was read the first time.

Mr. Parsons of Morton, introduced File No. 120, being the constitution of South Dakota as appears in Long's Legislative Hand Book.

Which was read the first time and ordered not printed.

#### SECOND READING OF ARTICLES.

File No. 94 was read the second time and referred to the Committee on Corporations other than Municipal.

File No. 95 was read the second time and referred to the Committee on Legislative Department.

File No. 96 was read the second time and referred to the Committee on Judiciary.

File No. 97 was read the second time and referred to the Committee on Judiciary.

File No. 98 was read the second time and referred to the Committee on Education.

File No. 99 was read the second time and referred to the Committee on School and Public Lands.

File No. 100 was read the second time and referred to the Committee on Legislative Department.

File No. 101 was read the second time and referred to the Committee on Legislative Department.

File No. 102 was read the second time and referred to the Committee on Legislative Department.

File No. 103 was read the second time and referred to the Committee on Revenue and Taxation.

File No. 104 was read the second time and referred to the Committee on Corporations other than Municipal.

File No. 105 was read the second time and referred to the Committee on Elective Franchise.

Mr. Rolfe moved that the vote by which standing committees be required to report by next Thursday be reconsidered.

Which motion was lost.

Mr. McHugh moved that that the Convention do now resolve itself into a committee of the Whole.

Which motion prevailed.

The President called Mr. McHugh to the chair.

When the committee rose the following report was presented:

MR. PRESIDENT:

Your Committee of the Whole have had under consideration File No. 25 providing that the legislative authority be vested in a single body and report progress and ask leave to sit again.

P. McHUGH,  
Chairman.

Mr. Williams moved that the report of the Committee of the Whole be adopted.

Which motion prevailed.

The Journal of the preceding session was read and corrected by inserting Section 6, in File No. 105, as follows:

"The Legislature shall from time to time make such laws as to carry out the provisions herein provided for, and to enact such laws as shall be more effectual in securing an honest ballot and to prevent fraud, bribery and improper expenditure of election funds, but shall have no power to make any law less stringent than herein provided."

Also by adding at the close of said article the words, "which was read the first time," and also adding the same words following File No. 106.

Mr. McHugh moved to adjourn.

Which motion prevailed, and the Convention adjourned.

J. G. HAMILTON,  
Chief Clerk.



TUESDAY, July 23, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

The President presiding.

Prayer was offered by the Chaplain.

The roll was called, all members being present except Messrs. Budge, Peterson, Powers, Pollock and Rolfe, who were excused.

The Journal of the preceding session was read and corrected by striking out the word "passed," and in lieu thereof insert the words "was indefinitely postponed" in the first line on page 2, July 22.

PETITIONS AND COMMUNICATIONS.

Mr. McHugh presented the following petition:

To the Honorable P. McHugh, B. R. Glick, John McBride and Joseph Powles, Members of the Constitutional Convention, N. D., from Cavalier county.

The petition of the subscribers, citizens and voters of Cavalier county, N. D., respectfully shows that your petitioners are in favor of having provisions made in the Constitution about to be framed prohibiting the manufacture and sale of intoxicating liquor within the state of North Dakota; and we, your petitioners, would respectfully ask that you use all honorable means to have such provisions incorporated into the Constitution about to be framed.

We would further ask that, if you are unable to have this prohibition article incorporated into the Constitution, that you use your best efforts to have an amendment to the Constitution prohibiting the manufacture and sale of intoxicating liquor, to be submitted to a vote of the people at the fall election for their adoption or rejection.

JOHN MAHON, *et al.*

BLUE MOUNTAIN LAKE, N. Y., July 22, 1889.

*The President of the Constitutional Convention:*

The American Sabbath Union, whose office is at 23 Park Row, earnestly recommend that a provision should be inserted in your New Constitution protecting and encouraging Sabbath observance. Perhaps the following form would be acceptable to the Convention: "No work or trade shall be carried on, on the first day of the week usually called Sunday, except such as may be strictly charitable or necessary and the Legislature shall pass laws regulating and encouraging the observance of the Holy Sabbath by all the people." If the matter has not already been favorably acted upon by the Convention, will you not kindly take the necessary steps to have this or a similar proposition adopted by the Convention and thus lay the Constitution for the new state upon the sure foundation of the divine word and reap the gratitude of your own people and those of the whole country. ELLIOT F. SHEPARD,

President of the American Sabbath Union.

Mr. Camp offered the following resolution and moved its adoption:

*Resolved.* That the stenographer be and he is hereby instructed not to take down the proceedings of the Committee of the Whole; and that no proceedings had in Committee of the Whole be printed.

The President ruled the same out of order.

#### REPORTS OF STANDING COMMITTEES.

MR. PRESIDENT:

Your Committee on Apportionment to whom File No. 20 was referred have had the same under consideration and report the same back with the recommendation that the five first sections be referred to the Committee on Legislative Department.

ANDREW SLOTTEN,  
Chairman.

Mr. McHugh moved that the report be adopted.

Which motion prevailed.

Mr. Williams by unanimous consent introduced the following as a substitute for Section 6, Page 48, of File No. 106:

**Sec. 6.** The president of the convention shall immediately after the adjournment thereof cause this Constitution to be deposited in the office of the governor of the territory, and if after the submission of the same to a vote of the people as herein provided, it shall appear that it has been adopted by a vote of the people of the state, then the governor shall forward a certified copy of the same, together with an abstract of the votes polled for and against the Constitution, to the president of the United States.

And moved that the consideration of File No. 106 be postponed until July 24.

Which motion prevailed.

#### REPORT OF COUNTY AND TOWNSHIP ORGANIZATION.

The president called Mr. Purcell to the chair.

Mr. Moer moved that File No. 25 be taken up for consideration.

Which motion prevailed.

Mr. Miller moved that the consideration of the report of the committee on county and township organization be postponed until Thursday, July 25.

Which motion was lost.

#### SECOND READING OF ARTICLES.

File No. 107 was read the second time and referred to the Committee on School and Public Lands.

File No. 108 was read the second time and referred to the Committee on Apportionment.

File No. 109 was read the second time and referred to the Committee on Miscellaneous.

File No. 110 was read the second time and referred to the Committee on Schedule.

File No. 111 was read the second time and referred to the Committee on Revenue and Taxation.

File No. 112 was read the second time and referred to the Committee on Legislative Department.

File No. 113 was read the second time and referred to the Committee on Legislative Department.

File No. 114 was read the second time and referred to the Committee on Legislative Department.

File No. 115 was read the second time and referred to the Committee on Revenue and Taxation.

File No. 116 was read the second time and referred to the Committee on Legislative Department.

File No. 117 was read the second time and referred to the Committee on Revenue and Taxation.

File No. 118 was read the second time and referred to the Committee on Legislative Department.

File No. 119 was read the second time and referred to the Committee on Executive Department.

File No. 120 was read the second time and referred to the Committee of the Whole.

Mr. Parsons, of Morton, moved that the Convention do now resolve itself into a Committee of the Whole to consider File No. 25.

Which motion prevailed, and

Mr. O'Brien was called to the chair.

Messrs. Stevens and Turner were excused.

Mr. Williams moved that the resolution referring to printing debates be referred to the Committee on Reporting and Publication.

Which motion prevailed.

Mr. Camp moved that the vote by which the resolution offered by Mr. Selby on July 18 passed be reconsidered.

Yeas and nays demanded.

The roll being called there were yeas 49, nays 17, viz:

Those who voted in the affirmative were:

Messrs—

Allin,  
Almen,  
Appleton,  
Bartlett, of Dickey,  
Bartlett, of Griggs,  
Bean,  
Bell,  
Bennett,  
Best,  
Blewett,  
Brown,  
Camp,  
Carland,  
Carothers,  
Chaffee,  
Clark,  
Colton,

Messrs—

Douglas,  
Fay,  
Flemington,  
Glick,  
Gray,  
Haugen,  
Hegge,  
Holmes,  
Johnson,  
Leach,  
Linwell,  
Lohnes,  
Marrinan,  
Mathews,  
Meacham,  
McBride,

Messrs—

McHugh,  
McKenzie,  
Noble,  
Nomland,  
O'Brien,  
Parsons, of Rolette,  
Paulson,  
Powles,  
Purcell,  
Ray,  
Richardson,  
Robertson,  
Shuman,  
Spalding,  
Wallace,  
Mr. President,

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Clapp,	Lowell,	Selby,
Elliott,	Miller,	Slotten,
Gayton,	Moer,	Stevens,
Griggs,	Rowe,	Wellwood,
Harris,	Sandager,	Williams,
Lauder,	Scott,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Budge,	Peterson,	Rolfe,
Hoyt,	Powers,	Turner,
Parsons, of Morton,	Pollock,	Whipple,

So the motion to reconsider prevailed.

Mr. Camp moved to amend the resolution of Mr. Selby by inserting after the word "Convention" where it first occurs, the words "but not the proceedings or debates of the committee of the whole hereafter had "

Yeas and nays demanded.

The roll being called there were ayes 47, nays 19, viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Allin,	Douglas,	McHugh,
Almen,	Fay,	McKenzie,
Appleton,	Flemington,	Noble,
Bartlett, of Dickey,	Gayton,	Nomland,
Bartlett, of Griggs,	Glick,	O'Brien,
Bell,	Gray,	Parsons, of Rolette,
Bennett,	Haugen,	Paulson,
Best,	Hegge,	Powles,
Blewett,	Holmes,	Purcell,
Brown,	Leach,	Ray,
Camp,	Linwell,	Richardson,
Carland,	Lohnes,	Robertson,
Carothers,	Marrinan,	Shuman,
Chaffee,	Mathews,	Spalding,
Clark,	Meacham,	Mr. President.
Colton,	McBride,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Bean,	Miller,	Slotten,
Clapp,	Moer,	Stevens,
Elliott,	Rowe,	Turner,
Harris,	Sandager,	Wallace,
Johnson,	Scott,	Wellwood,
Lauder,	Selby,	Williams.
Lowell,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Budge,	Parsons, of Morton,	Pollock,
Griggs,	Peterson.	Rolfe,
Hoyt,	Powers,	Whipple,

Mr. Lohnes moved to adjourn.

Which motion prevailed and the Convention adjourned.

J. G. HAMILTON,  
Chief Clerk.

WEDNESDAY, July 24, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

The President presiding.

Prayer was offered by the Chaplain.

The roll was called, all members being present except Messrs. McHugh, Powers and Spalding, who were excused.

The Journal of the preceding session was read and approved.

PETITIONS, COMMUNICATIONS, ETC.

Mr. Nomland presented the following petition:

HILLSBORO, N. D., July 23, 1889.

*To the Constitutional Convention of North Dakota:*

GENTLEMEN: The Scandinavian Temperance Society of Dakota, representing at large the loyal and progressive element among our fellow citizens of Scandinavian people, at its annual meeting held at Northwood, Grand Forks county, the 10th and 11th inst., adopted the following resolution, which, according to order, allow me as the secretary of the society to forward to your honorable body:

*Whereas*, The saloon traffic is a source of all misery, vice, crime, pauperism and all temporal and eternal destruction, is the worst enemy of civil and Christian progress. This society strongly oppose all kinds of legalizing the traffic by high or low license; therefore, be it

*Resolved*, That this society petition the honorable body of the Constitutional Convention, now assembled in Bismarck to do its best to secure constitutional prohibition for North Dakota.

TORGER F. HAV,  
Secretary.

Mr. Camp presented the following memorial:

*To the Honorable President and Members of the Constitutional Convention for North Dakota:*

GENTLEMEN: It gives me pleasure, as the official representative of the citizens of Jamestown, to communicate to you in their behalf an invitation to adjourn the Convention to this city for the remainder of the term required to complete the State Constitution. I am authorized to guarantee commodious and comfortable rooms for Convention and committee work free of expense, and free entertainment for the members who choose to accept it. Assuring you of the good faith of the foregoing invitation, and hoping that it will receive favorable consideration at your hands, I have the honor to subscribe myself,

Your Most Obedient Servant,

B. W. FULLER,  
Mayor of the City of Jamestown, North Dakota.

Mr. Parsons of Rolette, introduced the following resolution:

*Resolved*, That the Constitution, as adopted by this Convention, be printed in each of the newspapers published in North Dakota, and that all newspapers publishing the same be allowed a reasonable compensation therefor, according to the circulation of the papers so publishing.

That the Legislature of the state at its first session make an appropriation for the payment of the printing and publication of the Constitution as herein provided.

Mr. Wallace moved that the resolution be referred to the Committee on Printing.

Which motion prevailed.

#### REPORTS OF STANDING COMMITTEES.

The Committee on Judicial Department submitted the following report:

File No. 121.

#### JUDICIAL DEPARTMENT.

##### ARTICLE —

**SECTION 1.** The judicial power of the state of North Dakota shall be vested in a Supreme Court, district courts, probate courts, justices of the peace, and in such other courts as may be created by law for cities, incorporated towns and villages.

**SEC. 2.** The Supreme Court, except as otherwise provided in this Constitution, shall have appellate jurisdiction only, which shall be co-extensive with the state and shall have a general superintending control over all inferior courts under such regulations and limitations as may be prescribed by law.

**SEC. 3.** It shall have power to issue writs of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari*, injunction, and such other original and remedial writs as may be necessary to the proper exercise of its jurisdiction, and shall have authority to hear and determine the same; *provided*, however, that no jury trials shall be allowed in said Supreme Court, but in proper cases questions of fact may be sent by said court to a district court for trial.

**SEC. 4.** At least three terms of the Supreme Court shall be held each year at the seat of government.

**SEC. 5.** The Supreme Court shall consist of three judges, a majority of whom shall be necessary to form a quorum or pronounce a decision, but one or more of said judges may adjourn the court from day to day or to a day certain.

**SEC. 6.** The judges of the Supreme Court shall be elected by the qualified electors of the state at large, and except as may be otherwise provided herein for the first election for judges under this Constitution, said judges shall be elected at general elections.

**SEC. 7.** The term of office of the judges of the Supreme Court, except as in this article otherwise provided, shall be six years and shall hold their offices until their successors are duly qualified.

**SEC. 8.** The judges of the supreme court shall immediately after the first election under this Constitution, be classified by lot so that one shall hold his office for the term of two years, one for the term of four years, and one for the term of six years from the first Monday in December A. D. 1889. The lot shall be drawn by the judges who shall for that purpose assemble at the seat of government, and they shall cause the result thereof to be certified to the secretary of the territory and filed in his office, unless the secretary of state of North Dakota shall have entered upon the duties of his office, in which event said certification shall be filed therein. The judge having the shortest term to serve, not holding his office by election or appointment to fill a vacancy, shall be the chief justice and shall preside at all terms of the supreme court, and in case of his absence the judge having in like manner, the next shortest term to serve shall preside in his stead.

**SEC. 9.** There shall be a clerk and also a reporter of the supreme court who shall be appointed by the judges thereof and who shall hold office during the pleasure of said judges, and whose duties and emoluments shall be prescribed by law and by the rules of the supreme court not inconsistent with law. The Legislature shall make provision for the publication and distribution of the

decisions of the supreme court, and for the sale of the published volumes thereof.

SEC. 10. No person shall be eligible to the office of judge of the supreme court unless he be learned in law, be at least thirty years of age and a citizen of the United States, nor unless he shall have resided in this state or territory of Dakota five years next preceding his election.

SEC. 11. Whenever the population of the State of North Dakota shall equal six hundred thousand the Legislature shall have the power to increase the number of judges of the Supreme Court to five, in which event a majority of said court as thus increased shall constitute a quorum.

SEC. 12. No duties shall be imposed by law upon the Supreme Court or any of the judges thereof, except such as are judicial, nor shall any of the judges thereof exercise any power of appointment except as herein provided.

SEC. 13. The style of all process shall be "The State of North Dakota." All prosecutions shall be carried on in the name and by the authority of the State of North Dakota, and conclude, "against the peace and dignity of the same."

SEC. 14. Any vacancy happening by death, resignation or otherwise in the office of the Judge of the Supreme Court, shall be filled by appointment by the governor, which appointment shall continue until the first general election thereafter, when said vacancy shall be filled by election.

SEC. 15. The judges of the supreme and district courts shall receive such compensation for their services as may be prescribed by law, which compensation shall not be increased or diminished during the term for which a judge shall have been elected.

SEC. 16. In case a judge of the supreme court shall be in any manner interested in a case brought before said court, the remaining judges of said court shall call one of the district judges to sit with them on the hearing of said case.

#### DISTRICT COURTS.

SEC. 17. The district court shall have original jurisdiction, except as otherwise provided in this Constitution, of all causes both at law and in equity, and such appellate jurisdiction as may be conferred by law. They and the judges thereof shall also have jurisdiction and power to issue writs of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari*, injunction and other original and remedial writs, with authority to hear and determine the same.

SEC. 18. The state shall be divided into six judicial districts, in each of which there shall be elected at general elections, by the electors thereof, one judge of the district court therein, whose term of office shall be four years from the first Monday in January succeeding his election and until his successor is duly qualified. This section shall not be construed as governing the first election of district judges under this Constitution.

SEC. 19. Until otherwise provided by law, said districts shall be constituted as follows:

District No. 1 shall consist of the counties of Pembina, Cavalier, Walsh, Nelson and Grand Forks.

District No. 2 shall consist of the counties of Ramsey, Towner, Benson, Pierce, Rolette, Bottineau, McHenry, Church, Renville, Ward, Stevens, Mountrail, Garfield, Flanney and Buford.

District No. 3 shall consist of the counties of Cass, Steele and Traill.

District No. 4 shall consist of the counties of Richland, Ransom, Sargent, Dickey and McIntosh.

District No. 5 shall consist of the counties of Logan, LaMoure, Stutsman, Barnes, Wells, Foster, Eddy and Griggs.

District No. 6 shall consist of the counties of Burleigh, Emmons, Kidder, Sheridan, McLean, Morton, Oliver, Mercer, Williams, Stark, Hettinger, Bowman, Billings, McKenzie, Dunn, Wallace and Allred, and that portion of the Sioux Indian reservation lying north of the seventh standard parallel.

SEC. 20. The Legislature may, whenever two-thirds of the members of each house shall concur therein, but not oftener than once in four years, in-

crease the number of said judicial districts, and the judges thereof; such districts shall be formed from compact territory and bounded by county lines, but such increase or change in the boundaries of the district shall not work the removal of any judge from his office during the term for which he may have been elected or appointed.

SEC. 21. No person shall be eligible to the office of district judge, unless he be learned in the law, be at least twenty-five years old, and be a citizen of the United States; nor unless he shall have resided within the state or territory of Dakota at least two years next preceding his election; nor unless he shall, at the time of his election, be an elector within the judicial district for which he is elected.

SEC. 22. There shall be a clerk of the district court in each organized county, in which a court is holden, who shall be elected by the qualified electors of the county, and shall hold his office for the same term as other county officers. He shall receive such compensation for his services as may be prescribed by law.

SEC. 23. Writs of error and appeals may be allowed from the decisions of district courts to the supreme court, under such regulations as may be prescribed by law.

#### PROBATE COURTS.

SEC. 24. There shall be established in each county a probate court, which shall be a court of record, open at all times and holden by one judge, elected by the electors of the county, and whose term of office shall be two years.

SEC. 25. The probate court shall have jurisdiction in probate and testamentary matters, the appointment of administrators and guardians, the settlement of the accounts of executors, administrators and guardians, the sale of lands by executors, administrators and guardians, and such other probate jurisdiction as may be conferred by law.

#### JUSTICES OF THE PEACE.

SEC. 26. The Legislature shall provide by law for the election of justices of the peace in each organized county within the state, but the number of said justices to be elected in each organized county, shall be limited by law to such a number as shall be necessary for the proper administration of justice. The justices of the peace herein provided for shall have exclusive jurisdiction in all civil actions, where the amount in controversy exclusive of costs does not exceed fifty dollars, and concurrent jurisdiction with the district court in all civil actions where the amount in controversy exclusive of costs does not exceed two hundred dollars. They shall have such jurisdiction as committing magistrates as may be prescribed by law, but in no case shall said justices of the peace have jurisdiction, where the boundaries of, or title to, real estate shall come in question.

#### POLICE MAGISTRATES.

SEC. 27. The Legislature shall provide by law for the election of police magistrates in cities, incorporated towns and villages, who in addition to their jurisdiction of all cases arising under the ordinances of said cities, towns and villages shall be *ex-officio* justices of the peace of the county in which said cities, towns and villages may be located, and the Legislature may confer upon said police magistrates, the jurisdiction to hear, try and determine all cases of misdemeanor and the prosecutions therein shall be by information.

SEC. 28. Appeals shall lie from the probate court, final decisions of justices of the peace and police magistrates in such cases and pursuant to such regulations as may be prescribed by law.

#### MICELLANEOUS.

SEC. 29. The time of holding courts in the several counties of a district shall be as provided by law, but at least two terms of the district court shall be held annually in each organized county, and the Legislature shall make



provision for attaching unorganized counties or territory to organized counties for judicial purposes.

SEC. 30. Judges of the district courts may hold courts in other districts than their own under such regulations as shall be prescribed by law.

SEC. 31. No judge of the supreme or district courts shall act as attorney or counsellor at law.

SEC. 32. Until the Legislature shall provide by law for fixing the terms of courts, the judges of the supreme and district courts shall fix the terms thereof.

SEC. 33. No judge of the supreme or district court shall be elected or appointed to any other than a judicial office, or is eligible thereto during the term for which he was elected or appointed such judge. All votes or appointments for either of them for any elective or appointive office, except that of judge of the supreme court or district court, given by the legislature or the people, shall be void.

SEC. 34. Tribunals of conciliation may be established, with such powers and duties as shall be prescribed by law, or the powers and duties of the same may be conferred upon other courts of justice, but such tribunals or other courts when sitting as such shall have no power to render judgment to be obligatory on the parties, unless they voluntarily submit their matters of difference and agree to abide the judgment of such tribunals or courts.

Mr. Miller moved that the further consideration of File No. 106 be postponed until Saturday, July 27th.

Which motion prevailed.

The following report of the Committee of the Whole of July 23d was considered:

MR. PRESIDENT:

Your Committee of the Whole have had under consideration File No. 25, vesting the legislative power in one body, and recommend that the further consideration of File No. 25 be indefinitely postponed. Also have further considered File No. 63, and recommend that Sections 4 and 5 be stricken out, and that Section 6 be adopted. Your committee reports progress and asks leave to sit again.

JAS. F. O'BRIEN,  
Chairman.

Mr. Carland moved that the report of the Committee of the Whole be adopted.

Which motion prevailed.

Mr. Scott moved that the Convention proceed to the consideration of File No. 63.

Which motion prevailed, and

The President called Mr. Scott to the chair.

Mr. Noble moved that File No. 63 be recommitted to the Committee on County and Township Organizations.

Which motion prevailed.

Mr. Bartlett of Griggs, moved to adjourn.

Which motion prevailed and

The Convention adjourned.

J. G. HAMILTON,  
Chief Clerk.

THURSDAY, July 25, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

The President presiding.

Prayer was offered by the Rev. M. Barker, of Fargo.

The roll was called, all members being present except Messrs. Carland, Marrinan, Spalding and Stevens, who were excused.

The Journal of the preceding session was read and approved.

Mr. Camp moved that the memorial presented by himself July 24 be referred to a special committee of three to be appointed by the President.

Which motion prevailed, and

The President appointed Messrs. Moer, Scott and Meacham as such committee.

PETITIONS, COMMUNICATIONS, ETC.

Mr. Best presented the following communication:

HAMILTON, July 17, 1889.

*To the Delegates Assembled in Constitutional Convention in Bismarck, N. D.:*

We, the members of Pembina County Alliance assembled at this time, pray your honorable body that you provide that the office of county commissioner be abolished and that the chairman of each township board constitute the county board.

*Resolved*, That in the opinion of this county alliance, one house is all that is required for state legislation.

*Resolved*, That in the opinion of this county alliance the early sale or lease of all school land within the jurisdiction of North Dakota is for the benefit of the purpose for which it was intended, and that the sale of all such lands take place in their respective counties and if leased, to be leased for pasturage purposes only.

W. C. BRIGGS,  
Secretary.

Mr. Miller moved that the resolution requiring standing committees to report by July 25th, be reconsidered.

Which motion was lost.

REPORTS OF STANDING COMMITTEES.

MR. PRESIDENT:

The Committee on Public Debt and Public Works respectfully represent that they have their report under consideration and, pending the report of the Commission for the purpose of dividing the territorial debt, etc., would ask further time.

E. D. WALLACE,  
Chairman.

Which request was granted.

**MR. PRESIDENT:**

Your Committee on Accounts and Expenses respectfully report that they will be unable to report satisfactorily to the Convention until towards the close of the session thereof.

O. G. MEACHAM,  
Chairman.

Which request was granted.

**MR. PRESIDENT:**

Your committee appointed on Preamble and Bill of Rights have had under consideration the articles referred to them, and respectfully report progress, asking leave to make final report at a future date.

R. N. STEVENS,  
Chairman.

Which request was granted.

**MR. PRESIDENT:**

Your Committee on Revenue and Taxation would respectfully report that they have made progress, and would ask for further time to make final report.

J. L. COLTON,  
Chairman.

Which request was granted.

Mr. Scott moved that all committees not dependent upon other committees be required to make final report by Saturday July 27.

Which motion prevailed.

Mr. Williams moved that the reading of reports of standing committees to-day be by title only, except the reports of the Committees on Temperance, Impeachment and Removal From Office.

Which motion prevailed.

**MR. PRESIDENT:**

Your Committee on the Executive Department report File No. 8 back to the Convention with the recommendation that the same do not pass.

The same committee report Files 73 and 119 back to the Convention with the information that the said files are covered in substance in the final report.

W. H. ROWE,  
Chairman.

**MR. PRESIDENT:**

Your Committee on Public Institutions and Buildings respectfully report that they have made progress but have not finished their report, and beg leave that they be granted further time in which to complete said report.

H. F. MILLER,  
Chairman.

Which request was granted.

**MR. PRESIDENT:**

Your Committee on Corporations other than Municipal report progress and ask leave to sit again and report in future.

M. N. JOHNSON,  
Chairman.

Which request was granted.

**MR. PRESIDENT:**

The Committee on Executive Department respectfully submit the following report:

## ARTICLE —

## EXECUTIVE DEPARTMENT.

SECTION 1. The executive power shall be vested in a Governor, who shall reside at the seat of government, and shall hold his office for the term of two years and until his successor is elected and duly qualified; a Lieutenant-Governor, who shall be elected at the same time and for the same term.

SEC. 2. No person shall be eligible to the office of Governor or Lieutenant-Governor except a citizen of the United States and a qualified elector of the state, who shall have attained the age of thirty years and who shall have resided two years next preceding the election within the state or territory, nor shall he be eligible to any other office during the term for which he shall have been elected.

SEC. 3. The Governor and Lieutenant-Governor shall be elected by the qualified electors of the state at the time and places of choosing members of the Legislature. The persons respectively having the highest number of votes for Governor and Lieutenant-Governor shall be elected, but if two or more shall have an equal and highest number of votes for Governor or Lieutenant-Governor, the two houses of the Legislature, at its next regular session, shall forthwith, by joint ballot, choose one of such persons for said office. The returns of the election for Governor and Lieutenant-Governor shall be made in such manner as shall be prescribed by law.

SEC. 4. The Governor shall be commander-in-chief of the military and naval forces of the state, except when they shall be called into the service of the United States, and may call out the same to execute laws, suppress insurrection and repel invasion. He shall have power to convene the Legislature on extraordinary occasions. He shall, at the commencement of each session, communicate to the Legislature, by message, information of the condition of the state, and shall recommend such measures as he shall deem expedient. He shall transact all necessary business with the officers of the government, civil and military. He shall expedite all such measures as may be resolved upon by the Legislature, and shall take care that the laws be faithfully executed.

SEC. 5. The Governor shall have power to remit fines and forfeitures, to grant reprieves, commutations and pardons after conviction for all offenses except treason and cases of impeachment, but the legislature may by law in all cases regulate the manner in which the remission of fines, pardons, commutations and reprieves may be applied for. Upon conviction for treason he shall have power to suspend the execution of sentence until the case shall be reported to the Legislature at its next regular session, when the Legislature shall either pardon or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall communicate to the Legislature at each regular session each case of remission of fine, reprieve, commutation or pardon granted by him, stating the name of the convict, the crime of which he is convicted, the sentence and its date, and the date of the remission, commutation, pardon or reprieve, with his reasons for granting the same.

SEC. 6. In case of the death, impeachment, resignation, failure to qualify, absence from the state, removal from office, or other disability of the Governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted or the disability removed, shall devolve upon the Lieutenant-Governor.

SEC. 7. The Lieutenant-Governor shall be president of the senate, but shall have only a casting vote therein. If during a vacancy of the office of Governor the Lieutenant-Governor shall be impeached, displaced, resign or die, or from mental or physical disease, or otherwise become incapable of performing the duties of his office, the Secretary of State shall act as Governor until the vacancy shall be filled or the disability removed.

SEC. 8. When any office shall from any cause become vacant, and no mode is provided by the Constitution or law for filling such vacancy, the Governor shall have power to fill such vacancy by appointment.

SEC. 9. Every bill which shall have passed the Legislature, shall before it becomes a law, be presented to the Governor. If he approve, he shall sign,

but if not he shall return it with his objections to the house in which it originated, which shall enter the objection at large upon the Journal and proceed to reconsider it. If after such reconsideration two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objection, to the other house, by which it shall likewise be reconsidered, and if it be approved by two-thirds of the members present, it shall become a law; but in all such cases the vote of both houses shall be determined by the yeas and nays, and the names of the members voting for and against the bill shall be entered upon the Journal of each house respectively. If any bill shall not be returned by the Governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, unless the Legislature shall by its adjournment prevent its return, in which case it shall be filed with his objection in the office of the Secretary of State, within fifteen days after such adjournment, or become a law.

SEC. 10. The Governor shall have the power to disapprove of any item or items or part or parts of any bill making appropriations of money or property embracing distinct items and part or parts of the bill approved shall be law, and the item or items and part or parts disapproved shall be void, unless enacted in the following manner: If the Legislature be in session he shall transmit to the house in which the bill originated a copy of the item or items or part or parts thereof disapproved, together with his objection thereto, and the items or parts objected to shall be separately reconsidered, and each item or part shall then take the same course as is prescribed for the passage of bills over the executive veto.

SEC. 11. Any Governor of this state who asks, receives, or agrees to receive, any bribe upon any understanding that his official opinion, judgment or action shall be influenced thereby, or who gives or offers, or promises his official influence in consideration that any member of the Legislature shall give his official vote or influence on any particular side of any question or matter upon which he may be required to act in his official capacity, or who menaces any member by the threatened use of his veto power, or who offers or promises any member that he, the said Governor, will appoint any particular person or persons to any office created or thereafter to be created, in consideration that any member shall give his official vote or influence on any matter pending or thereafter to be introduced into either house of said Legislature, or who threatens any member that he, the said Governor, will remove any person or persons from office or position with intent to in any manner influence the official action of said member, shall be punished in the manner now, or that may hereafter be provided by law, and upon conviction thereon, shall forfeit all right to hold or exercise any office of trust or honor in this state.

SEC. 12. There shall be chosen by the qualified electors of the state at the times and places of choosing members of the Legislature, a Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of School and Public Lands, Commissioner of Insurance, three Commissioners of Railroads, Attorney-General and Commissioner of Agriculture and Statistics, who shall have attained the age of twenty-five years, and shall have the qualifications of state electors. They shall severally hold their offices at the seat of government for the term of two years and until their successors are elected and duly qualified, but no person shall be eligible to the office of Treasurer for more than two consecutive terms.

SEC. 13. The powers and duties of the Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of School and Public Lands, Commissioner of Insurance, Commissioners of Railroads, Attorney-General and Commissioner of Agriculture and Statistics shall be as prescribed by law.

SEC. 14. Until otherwise provided by law, the Governor shall receive an annual salary of \$3,000; the Lieutenant-Governor shall receive an annual salary of \$1,000; the Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of School and Public Lands, Commissioner of Insurance, Commissioners of Railroads and Attorney-General shall each receive an annual salary of \$2,000; the salary of the Commissioner of Agricul-

ture and Statistics shall be as prescribed by law, but the salaries of any of the said officers shall not be increased or diminished during the period for which they shall have been elected; and all fees and profits arising from any of said offices shall recover into the state treasury.

W H. ROWE,  
Chairman.

**MR. PRESIDENT.**

Your Committee on Elective Franchise, to whom was referred Files Nos. 13, 17, 29, 35, 62, 76 and 105, have had the same under consideration, and would respectfully recommend the annexed article as a substitute therefor, and that it be incorporated in the Constitution as the article on elective franchise.

Your committee further recommends that the annexed copy entitled "A Bill" printed by order of the Convention at the request of the committee, be incorporated in the schedule of this Constitution, with the proviso that the Legislature may alter or amend as they may deem proper.

A. S. PARSONS,  
Chairman.

[ Copy of Australian election bill, known as Council Bill No. 60, attached. ]

**ELECTIVE FRANCHISE.**

**ARTICLE —**

**SECTION 1.** Every male person of the age of twenty-one years or upwards belonging to either of the following classes, who shall have resided in the state one year, in the county six months, in the precinct sixty days next preceding any election, shall be deemed a qualified elector at such election:

First. Citizens of the United States.

Second. Persons of foreign birth who shall have declared their intention to become citizens one year and not more than six years prior to such election, conformably to the naturalization laws of the United States.

Third. Civilized persons of Indian descent who shall have severed their tribal relations two years next preceding such election.

**SEC. 2.** The Legislature shall be empowered to make further extensions of suffrage hereafter at its discretion to all citizens of mature age and sound mind, not convicted of crime, without regard to sex, but shall not restrict suffrage without a vote of the people.

**SEC. 3.** Electors shall in all cases except treason, felony, breach of the peace or illegal voting, be privileged from arrest on the days of election during their attendance at, in going to and returning from such election, and no elector shall be obliged to perform military duty on the day of election except in time of war or public danger.

**SEC. 4.** All general elections shall be biennial.

**SEC. 5.** No elector shall be deemed to have lost his residence in this state by reason of his absence on business of the United States or of this state, or in the military or naval service of the United States.

**SEC. 6.** No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this state in consequence of his being stationed therein.

**SEC. 7.** No person under guardianship, *non compos mentis*, or insane, shall be qualified to vote at any election, nor shall any person convicted of treason or felony be qualified to vote at any election unless restored to civil rights.

**SEC. 8.** Any woman having the qualifications enumerated in section 1 of this article as to age, residence and citizenship, and including those now qualified by the laws of the territory, may vote at any election held solely for school purposes, and may hold any office in this state, except as otherwise provided in this Constitution.

**SEC. 9.** All elections by the people shall be by secret ballot, subject to such regulations as shall be provided by law.

The undersigned minority of this committee beg leave to submit the following report:

That the following section be substituted in lieu of section 2 of the committee's report:

**SEC. 2.** The legislature shall at its first session after the admission of the state into the Union, submit to a vote of the electors of the state the following question, to be voted upon at the next general election held thereafter, namely: "Shall the word 'male' be stricken from the article of the Constitution relating to elections and the right of suffrage?" If a majority of the votes cast upon that question are in favor of striking out said word "male," it shall be stricken out and there shall thereafter be no distinction between males and females in the exercise of the right of suffrage at any election in this state.

A. S. PARSONS,  
M. F. HEGGE,  
V. B. NUBLE,  
O. G. MEACHAM,  
JAS. BELL,  
WM. RAY,  
GEO. H. FAY.

MR. PRESIDENT:

Your Committee on Education respectfully submit the following report, and recommend its adoption:

#### ARTICLE——.

##### EDUCATION.

**SECTION 1.** A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people, being necessary in order to insure the continuance of that government and the prosperity and happiness of the people, the legislature shall make provision for the establishment and maintenance of a system of public schools, which shall be open to all children of the State of North Dakota, and free from sectarian control. This legislative requirement shall be irrevocable without the consent of the United States and the people of North Dakota.

**SEC. 2.** The Legislature shall provide at their first session after the adoption of this Constitution for a uniform system of free public schools throughout the state, beginning with the primary and extending through all grades up to and including the normal and collegiate course.

**SEC. 3.** In all schools instruction shall be given as far as practicable in those branches of knowledge that tend to impress upon the mind the vital importance of truthfulness, temperance, purity, public spirit and respect for honest labor of every kind.

**SEC. 4.** A State Superintendent of Public Instruction shall be elected by the qualified electors of the state at each gubernatorial election after the adoption of this constitution, whose qualifications, powers, duties and compensation shall be prescribed by law.

**SEC. 5.** A superintendent of schools for each county shall be elected every two years, whose qualifications, duties, powers and compensation shall be fixed by law.

**SEC. 6.** The Legislature may take such other steps as may be necessary to prevent illiteracy, secure a reasonable degree of uniformity in course of study and to promote industrial, scientific and agricultural improvement.

**SEC. 7.** All colleges, universities and other educational institutions, for the support of which lands have been granted to this state or which are supported by a public tax, shall remain under the absolute and exclusive control of the state. No money raised for the support of the public schools of the state shall be appropriated to or used for the support of any sectarian school.

J. D. MCKENZIE,  
Chairman.

**MR. PRESIDENT:**

Your Committee on Municipal Corporations would respectfully submit a report, as follows:

**SECTION 1.** The Legislature shall provide by general law for the organization of municipal corporations, restricting their powers as to levying taxes and assessments, borrowing money and contracting debts, and money raised by taxation, loan or assessment for one purpose shall not be diverted to any other purpose except by authority of law.

**SEC. 2.** No city, town, village or other municipal corporation of this state, shall ever become the subscriber to the capital stock, or owner of such stock, or any portion or interest therein, of any railroad, private corporation or association.

**RICHARD BENNETT,**  
Chairman.

**MR. PRESIDENT:**

Your Committee on Impeachment and Removal from Office submit the following report:

**SECTION 1.** The House of Representatives shall have the sole power of impeachment. The concurrence of a majority of all members elected shall be necessary to an impeachment.

**SEC. 2.** All impeachments shall be tried by the senate. When sitting for that purpose the senate shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. When the Governor or Lieutenant-Governor is on trial, the presiding Judge of the Supreme Court shall preside.

**SEC. 3.** The Governor and other state and judicial officers, except county or probate judges, justices of the peace and police magistrates, shall be liable to impeachment for habitual drunkenness, crimes, corrupt conduct or malfeasance or misdemeanor in office, but judgment in such cases shall not extend further than removal from office and disqualification to hold any office of trust or profit under the state. The person accused, whether convicted or acquitted, shall, nevertheless, be liable to indictment, trial, judgment and punishment according to law.

**SEC. 4.** All officers not liable to impeachment shall be subject to removal for misconduct, malfeasance, crime or misdemeanor in office, or for habitual drunkenness or gross incompetency, in such manner as may be provided by law.

**SEC. 5.** No officer shall exercise the duties of his office after he shall have been impeached and before his acquittal.

**SEC. 6.** On trial of an impeachment against the Governor, the Lieutenant-Governor shall not act as a member of the court.

**SEC. 7.** No person shall be tried on impeachment before he shall have been served with a copy thereof at least twenty days previous to the day set for trial.

**SEC. 8.** No person shall be liable to impeachment twice for the same offense.

**EZRA TURNER,**  
Chairman.

**MR. PRESIDENT:**

Your Committee on Militia beg leave to present the following report:

(1.) *Militia Generally.*

**SECTION 1.** The militia of the state shall consist of all able-bodied male persons residing within the state, between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States or of this state. Persons whose religious tenets or conscientious scruples forbid them to bear arms shall not be compelled to do so in times of peace, but shall pay an equivalent for personal service.



(2.) *Active Militia.*

SEC. 2. The militia shall be enrolled, organized, uniformed, armed and disciplined in such manner as shall be provided by law, not incompatible with the Constitution or laws of the United States.

SEC. 3. The General Assembly shall provide by law for the establishment of volunteer organizations of the several arms of the service, which shall be classed as active militia.

SEC. 4. All militia officers shall be appointed or elected in such manner as the General Assembly shall prescribe.

SEC. 5. The commissioned officers of the militia shall be commissioned by the Governor, and no commissioned officer shall be removed from office except by sentence of court-marshal, pursuant to law.

SEC. 6. The militia forces shall, in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at musters, parades and election of officers, and in going to and returning from the same.

P. McHUGH,  
Chairman.

MR. PRESIDENT:

The Temperance Committee to whom were referred Files Nos. 5, 7, 9, 14, 24, 27, 30, 57, 58, 81 and 93, have had the same under consideration and respectfully recommend that the annexed article be substituted therefor, and that it be submitted to a separate vote with the Constitution, a part of which it shall become if carried, and that suitable provision be made therefor in the schedule and ordinance:

## ARTICLE —

No person, association or corporation shall within this state manufacture or aid in the manufacture, for sale or gift, any intoxicating liquor; and no person, association or corporation shall import any of the same for sale or gift, or keep or offer the same for sale, gift, barter or trade as a beverage. The legislature shall by law prescribe regulations for the enforcement of the provisions of this article, and shall thereby provide suitable penalties for the violation thereof.

ARNE P. HAUGEN,  
Chairman.

MR. PRESIDENT:

The Committee on Legislative Department have carefully considered Files numbered 26, 48, 20, 28, 31, 68, 70, 85, 88, 100, 101, 112, 113, 116, 118, 95, 102, 19 and 37, and have incorporated the substance of them in the following article which your committee recommend be made a part of the Constitution:

## ARTICLE —.

## THE LEGISLATURE.

(1.) *Division of the Legislature.*

SECTION 1. The Legislative power shall be vested in a senate and house of representatives.

(2.) *Senate.*

SEC. 2. The senate shall be composed of not less than thirty nor more than fifty members.

SEC. 3. Senators shall be elected for the term of four years, except as hereinafter provided.

SEC. 4. No person shall be a senator who is not a qualified elector in the district in which he may be chosen, and who shall not have attained the age of twenty-five years, and have been a resident of the state or territory for two years next preceding his election.

SEC. 5. At its first session after the adoption of this Constitution, the Legislative Assembly shall fix the number of senators, and divide the state

into as many senatorial districts as there are senators, which districts, as nearly as may be, shall be equal to each other in the number of inhabitants entitled to representation. Each district shall be entitled to one senator and no more, and shall be composed of compact and contiguous territory; and no county shall be divided between two districts. The districts as thus ascertained and determined shall continue until changed by law.

SEC. 6. The senatorial districts shall be numbered consecutively from one upwards, according to the number of districts prescribed, and the senators shall be divided into two classes. Those elected in the districts designated by even numbers shall constitute one class, and those elected in districts designated by odd numbers shall constitute the other class. The senators of one class shall hold their offices for two years, those of the other class shall hold their offices for four years, and the determination of the two classes shall be by lot, so that one-half the senators, as nearly as practicable, may be elected biennially.

SEC. 7. The senate, at the beginning and close of each regular session, and at such other times as may be necessary, shall elect one of its members president *pro tempore*, who may take the place of the Lieutenant-Governor under rules prescribed by law.

### (3.) *House of Representatives.*

SEC. 8. The house of representatives shall be composed of not less than sixty nor more than one hundred and forty members.

SEC. 9. Representatives shall be elected for the term of two years.

SEC. 10. No person shall be a representative who is not a qualified elector in the district for which he may be chosen, and who shall not have attained the age of twenty-one years and have been a resident of the state or territory for two years next preceding his election.

SEC. 11. At its first session after the adoption of this Constitution the Legislative Assembly shall apportion the state as nearly as possible into representative districts composed of compact and contiguous territory according to the population, giving however one representative to each organized county.

SEC. 12. The house of representatives shall elect one of its members as speaker.

### (4.) *Members of Both Houses.*

SEC. 13. No judge or clerk of any court, secretary of state, attorney-general, recorder, sheriff or person holding any office of profit under this state, except offices in the militia, or the office of a attorney at law, notary public or justice of the peace, and no person holding any office of profit or honor under any foreign government or under the government of the United States, except postmasters whose annual compensation does not exceed the sum or three hundred dollars, shall hold any office in either branch of the Legislative Assembly or become a member thereof.

SEC. 14. No member of the Legislative Assembly expelled for corruption, and no person convicted of bribery, perjury or other infamous crime shall be eligible to the Legislative Assembly or to any office in either branch thereof.

SEC. 15. No member of the Legislative Assembly shall during the term for which he was elected, be appointed or elected to any civil office in the state which shall have been created or the emoluments of which shall have been increased, during the term for which he was elected; nor shall any member receive any civil appointment from the Governor, or Governor and Senate, during the term for which he shall have been elected.

SEC. 16. If any person elected to either house of the Legislative Assembly shall offer or promise to give his vote or influence in favor of or against any measure or proposition pending or proposed to be introduced into the Legislative Assembly, in consideration or upon condition that any other person elected to the same Legislative Assembly will give, or will promise or assent to give, his vote or influence in favor of or against any other measure or proposition pending or proposed to be introduced into such Legislative As-

sembly, the person making such offer or promise shall be deemed guilty of solicitation of bribery. If any member of the Legislative Assembly, shall give his vote or influence for or against any measure or proposition pending or proposed to be introduced into such Legislative Assembly, or offer, promise or assent so to do upon condition that any other member will give, or will promise or will assent to give his vote or influence in favor of or against any other measure or proposition pending or proposed to be introduced into such Legislative Assembly, or in consideration that any other member hath given his vote or influence for or against any other measure or proposition in such Legislative Assembly, he shall be deemed guilty of bribery, and any member of the Legislative Assembly, or person elected thereto, who shall be guilty of either of such offences, shall be expelled, and shall not thereafter be eligible to the Legislative Assembly, and on the conviction thereof in the civil courts, shall be liable to such further penalty as may be prescribed by law.

SEC. 17. The term of service of the members of the Legislative Assembly shall begin on the first Tuesday in January next after their election.

SEC. 18. The members of the Legislative Assembly shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to or returning from the same. For words used in any speech or debate in either house, they shall not be questioned in any other place.

SEC. 19. A member who has a personal or private interest in any measure or bill proposed or pending before the Legislative Assembly, shall disclose the fact to the house of which he is a member, and shall not vote thereon without the consent of the house.

SEC. 20. The Governor shall issue writs of election to fill such vacancies as may occur in either house of the Legislative Assembly.

SEC. 21. Each member of the Legislative Assembly shall receive as compensation for his services for each regular session \$300 and ten cents for every mile of necessary travel in going to and returning from the place of meeting of the Legislative Assembly on the most usual route, and \$5 per day for extra sessions, and ten cents for every mile of necessary travel in going to and returning from the place of meeting of the Legislative Assembly on the most usual route.

(5.) *Each House Separately.*

SEC. 22. A majority of the members of each house shall constitute a quorum, but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such a manner and under such a penalty as may be prescribed by law.

SEC. 23. Each house shall be the judge of the election returns and qualifications of its own members.

SEC. 24. Each house shall have power to determine the rules of proceeding and punish its members or other persons for contempt or disorderly behavior in its presence; to protect its members against violence or offers of bribes or private solicitation, and with the concurrence of two-thirds to expel a member, and shall have all other powers necessary and usual in the Legislative Assembly of a free state. But no imprisonment by either house shall continue beyond thirty days. Punishment for contempt or disorderly behavior shall not bar a criminal prosecution for the same offense.

SEC. 25. Each house shall keep a journal of its proceedings, and the yeas and nays of any question shall be taken and entered on the journal at the request of one-sixth of those present.

SEC. 26. The sessions of each house and of the Committee of the Whole shall be open, unless the business is such as ought to be kept secret.

SEC. 27. Neither house shall, without the consent of the other, adjourn for more than three days, or to any other place than that in which the two houses shall be sitting, except in case of epidemic, pestilence or other great danger.

(6.) *Both Houses.*

SEC. 28. The senate and house of representatives jointly shall be designated as the Legislative Assembly of the state of North Dakota.

SEC. 29. The Legislative Assembly shall meet at the seat of government at 12 o'clock on the first Tuesday after the first Monday of January, in the year next following the election of members thereof.

SEC. 30. In all elections to be made by the Legislative Assembly, or either house thereof, the members shall vote *viva voce*, and their votes shall be entered in the journal.

SEC. 31. The sessions of the Legislative Assembly shall be biennial, except as otherwise provided in this Constitution.

SEC. 32. No regular sessions of the Legislative Assembly shall exceed ninety days, except in case of impeachment.

(7.) *Passage of Laws.*

SEC. 33. Any bill may originate in either house of the Legislative Assembly, and a bill passed by one house may be amended by the other.

SEC. 34. No law shall be passed except by a bill adopted by both houses, and no bill shall be so altered and amended on its passage through either house as to change its original purpose.

SEC. 35. The enacting clause of every law shall be as follows: Be it enacted by the Legislative Assembly of the State of North Dakota.

SEC. 36. No bill for the appropriation of money, except for the expenses of the government shall be introduced after the twenty-fifth day of the session, except by unanimous consent of the house in which it is sought to be introduced.

SEC. 37. No bill shall embrace more than one subject, which shall be expressed in its title, but a bill which violates this provision shall be invalidated thereby only as to so much thereof as shall not be so expressed.

SEC. 38. The general appropriation bill shall embrace nothing but appropriations for the expenses of the executive, legislative and judicial departments of the state, interest on the public debt, and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.

SEC. 39. Every bill shall be read three several times, but the first and second readings, and these only, may be upon the same day, and the second reading may be by title of the bill, unless a reading at length be demanded. The first and third readings shall be at length. No legislative day shall be shorter than the natural day.

SEC. 40. No bill shall be considered or become a law unless referred to a committee, returned therefrom and printed for the use of the members.

SEC. 41. No bill shall be revised or amended or the provisions thereof extended or incorporated in any other bill by reference to its title only, but so much thereof as is revised, amended, extended or so incorporated shall be re-enacted and published at length.

SEC. 42. No bill shall become a law except by a vote of a majority of all the members present in each house, nor unless on its final passage the vote be taken by yeas and nays and the names of those voting be entered on the journal.

SEC. 43. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the Legislative Assembly; immediately before such signing, their title shall be publicly read; and the fact of signing shall be at once entered upon the journal.

SEC. 44. No act of the Legislative Assembly shall take effect until sixty days after the close of the session, unless in case of emergency (which shall be expressed in the preamble or body of the act), the Legislative Assembly shall by a vote of two-thirds of all the members present in each house otherwise direct.

SEC. 45. The Legislative Assembly shall pass all laws necessary to carry into effect the provisions of this Constitution.

(8.) *Special Limitations.*

SEC. 46. The Legislative Assembly shall not pass local or special laws in any of the following enumerated cases, that is to say:

- For granting divorces.
- Laying out, opening, altering or working roads or highways, vacating roads, town plats, streets, alleys or public grounds.
- Locating or changing county seats.
- Regulating county or township affairs.
- Regulating the practice of courts of justice.
- Regulating the jurisdiction and duties of justices of the peace, police magistrates, or constables.
- Changing the rules of evidence in any trial or inquiry.
- Providing for changes of venue in civil or criminal cases.
- Declaring any person of age.
- For limitation of civil actions, or giving effect to informal or invalid deeds.
- Summoning or impaneling grand or petit juries.
- Providing for the management of common schools.
- Regulating the rate of interest on money.
- The opening or conducting of any election or designating the place of voting.
- The sale or mortgage of real estate belonging to minors or others under disability.
- Chartering or licensing ferries or toll bridges or toll roads.
- Remitting fines, penalties or forfeitures.
- Creating, increasing or decreasing fees, percentage or allowances of public officers.
- Changing the law of descent.
- Granting to any corporation, association or individual the right to lay down railroad tracks, or any special or exclusive privilege, immunity or franchise whatever.
- For the punishment of crimes.
- Changing the names of persons or places.
- For the assessment or collection of taxes.
- Affecting estates of deceased persons, minors or others under legal disabilities.
- Extending the time for the collection of taxes.
- Refunding money paid into the state treasury.
- Relinquishing or extinguishing in whole or in part the indebtedness, liability or obligation of any corporation or person to this state, or to any municipal corporation therein.
- Legalizing, except as against the state, the unauthorized or invalid act of any officer.
- Exempting property from taxation.
- Restoring to citizenship persons convicted of infamous crimes.
- Authorizing the creation, extension or impairing of liens.
- Creating offices, or prescribing the powers and duties of officers in counties, cities, townships, election or school districts, or authorizing the adoption or legitimation of children.
- In all other cases, where a general law can be made applicable, no special law shall be enacted.
- Incorporation of cities, towns or villages, or changing or amending the charter of any town, city or village.
- Providing for the election of members of the board of supervisors in townships, incorporated towns or cities.
- The protection of game or fish.

SEC. 47. No appropriation shall be made for charitable, industrial, educational or benevolent purposes, or for the benefit of any person, corporation or community not under the absolute control of the state, nor shall any appropriation be made or taxation authorized for the benefit of any denominational or sectarian school, institution or association.

SEC. 48. The Legislative Assembly shall not delegate to any special commission, private corporation, or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes or to perform any municipal functions whatever.

Files numbered 16, 18, 19, 20, 26, 28, 31, 37, 45, 48, 60, 70, 80, 85, 88, 95, 100, 101, 102, 112, 113, 114, 116 and 118 are reported back with the recommendation that they be laid upon the table.

E. A. WILLIAMS,  
Chairman.

MR. PRESIDENT:

Your Committee on Schools and Other Public Lands make the following report:

SECTION 1. All proceeds of the public lands that have heretofore been or may hereafter be granted by the United States for the support of common schools in the state; all such per centum as may be granted by the United States on the sale of public lands; the proceeds of property that shall fall to the state by escheat; the proceeds of all gifts and donations to the state for common schools, or not otherwise appropriated by the terms of the gifts, and all other property otherwise acquired for common schools shall be and remain a perpetual fund for the maintenance of the common schools of the state. It shall be deemed a trust fund, the principal of which shall ever remain inviolate, and may be increased but never diminished. The state shall make good all losses thereof which may in any manner occur.

SEC. 2. The interest and income of this fund, together with the net proceeds of all fines for violation of state laws, and all other sums which may be added thereto by law, shall be faithfully used and applied each year for the benefit of the common schools of the state, and shall be for this purpose apportioned among and between all the several common school corporations of the state in proportion to the number of children in each of school age, as may be fixed by law, and no part of the fund shall ever be diverted, even temporarily, from this purpose or used for any other purpose whatever than the maintenance of common schools for the equal benefit of all the people of the state; *provided*, however, that if any portion of the interest or income aforesaid be not expended during any year, said portion shall be added to and become a part of the school fund.

SEC. 3. After one year from the assembling of the first Legislature, the lands granted to the state from the United States for the support of the common schools may be sold upon the following conditions, and no other: No more than one-fourth of all such lands shall be sold within the first five years after the same become saleable by virtue of this section. No more than one-half of the remainder within ten years after the same become saleable as aforesaid. The residue may be sold as soon as the same becomes saleable at not less than ten dollars per acre. The Legislature shall provide for the sale of all school lands subject to the provisions of this article.

SEC. 4. The Superintendent of Public Schools, Governor, Attorney General and Secretary of State shall constitute a board of commissioners which shall be denominated the "Board of University and School Land Commissioners," subject to the provisions of this article and any law that may be passed by the Legislature. Said board shall have control of the apportionment, sale, rental and disposal of all school and university lands, and shall direct the investment of the funds arising therefrom in the hands of the State Treasurer, under the limitations in Section 10 of this article.

SEC. 5. The county superintendent of common schools, the chairman of the county board and the county auditor shall constitute boards of appraisal, and under the authority of the State Board of University and School Land Commissioners shall appraise all school lands within their respective counties, which they may from time to time recommend for sale, at their actual value under the prescribed terms. They shall take care first to select and designate for sale the most valuable lands.

SEC. 6. No lands shall be sold for less than the appraised value, and in no case for less than ten dollars per acre. The purchaser shall pay one-fifth of the price in cash, and the remaining four-fifths as follows, to-wit: One-fifth in five years, one-fifth in ten years, one-fifth in fifteen years and one-fifth in twenty years, with interest at the rate of not less than six per centum payable annually in advance. All sales shall be held at the county seat of the county in which the land to be sold is situate, and shall be at public auction and to the highest bidder, after sixty days advertisement of the same in a newspaper of general circulation in the vicinity of the lands to be sold, and one at the seat of government. Such lands as shall not have been specially subdivided shall be offered in tracts of not less than one hundred and sixty acres, and those so subdivided in the smallest subdivisions. All lands designated for sale, and not sold within two years after appraisal, shall be reappraised before they are sold. No grant or patent for any such lands shall issue until full payment is made for the same.

SEC. 7. All lands, money or other property donated, granted, or received from the United States or any other source for a university, school of mines, reform school, agricultural college, deaf and dumb asylum, normal school, or other educational or charitable institution or purpose, and the proceeds of all such lands and other property so received from any source, shall be and remain perpetual funds, the interest and income of which, together with the rents of all such land as may remain unsold, shall be inviolably appropriated and applied to the specific objects of the original grants or gifts. The principal of every such fund may be increased, but shall never be diminished, and the interest and income only shall be used. Every such fund shall be deemed a trust fund held by the state, and the state shall make good all losses therefrom that shall in any manner occur.

SEC. 8. All lands mentioned in the preceding section shall be appraised and sold in the same manner and by the same board, under the same limitations and subject to all the conditions as to price and sale as provided above for the appraisal and sale of lands for the benefit of common schools, but a distinct and separate account shall be kept by the proper officers of each of such funds; *provided*, that the limitations as to the *time* in which school lands may be sold shall apply only to lands granted for the support of common schools.

SEC. 9. The Legislature shall have authority to provide by law for the leasing of lands granted to the state for educational and charitable purposes, but no such law shall authorize the leasing of said lands for a longer period than five years. Said lands shall only be leased for pasturage and meadow purposes, and at public auction after notice as heretofore provided in case of sale. All rents shall be paid annually in advance.

SEC. 10. The moneys of the permanent school fund and other educational funds shall be invested only in bonds of school corporations within the state, bonds of the United States or bonds of the State of North Dakota.

SEC. 11. No law shall ever be passed by the Legislature granting to any person, corporation or association any privileges by reason of the occupation, cultivation or improvement of any public lands by said person, corporation or association subsequent to the survey thereof by the general government. No claim for the occupation, cultivation or improvement of any public lands shall ever be recognized, nor shall such occupation, cultivation or improvement ever be used to diminish, either directly or indirectly, the purchase price of said lands.

SEC. 12. The legislature shall have authority to provide by law for the sale or disposal of all public lands that have been heretofore or may hereafter be granted by the United States to the state for purposes other than set forth and named in sections 1 and 7 of this article, and the Legislature shall provide for the appraisal, sale, rental and disposal of the same not subject to the provisions and limitations of this article.

SEC. 13. The Legislature shall pass suitable laws for the safe-keeping, transfer and disbursements of the state school funds, and shall require all officers charged with the same or the safe-keeping thereof, to give ample bonds

for all moneys and funds received by them, and if any of said officers shall convert to his own use in any manner or form, or shall loan, with or without interest, or shall deposit in his own name, or otherwise than in the name of the State of North Dakota, or shall deposit in banks or with any person or persons, or exchange for other funds or property any portion of the school funds aforesaid, or purposely allow any portion of the same to remain in his hands uninvested, except in the manner prescribed by law, every such act shall constitute an embezzlement of so much of the aforesaid school funds as shall be thus taken or loaned or deposited or exchanged or withheld, and shall be a felony, and any failure to pay over, produce or account for the state school funds, or any part of the same intrusted to any such officer as by law required or demanded, shall be taken to be *prima facie* evidence of such embezzlement.

H. M. CLARK,

Chairman.

Mr. Williams moved that the report of the Judiciary Committee be laid over until July 26.

Which motion prevailed.

Mr. Rolfe moved that the Convention do now resolve itself into a Committee of the Whole to consider Sections 2 and 8 of the report of the Legislative Department.

Which motion prevailed, and

The President called Mr. Flemington to the chair.

When the committee rose the following report was presented:

MR. PRESIDENT:

Your Committee of the Whole have had under consideration Section 8, of the report of the Committee on Legislative Department, fixing the number to constitute the house of representatives, and recommend its adoption as a section of the Constitution. Also Section 2, of the article entitled "Senate," and recommend that the further consideration of the section be postponed until tomorrow.

ALEX. D. FLEMINGTON,

Chairman.

Mr. McHugh moved that the report of the Committee of the Whole be adopted.

Which motion prevailed.

Mr. Turner moved that the report of the Committee on Temperance be read the second time.

Which motion prevailed.

And the report was read the second time.

Mr. Pollock moved that the Convention do now resolve itself into a Committee of the Whole to consider the report of the Committee on Temperance.

Which motion prevailed, and

The President called Mr. Moer to the chair.

When the Committee rose the following report was presented:

MR. PRESIDENT:

Your Committee of the Whole have had under consideration the report of the Committee on Temperance, and the article submitted for adoption by the Committee, and recommend that the report of the Committee on Temperance be adopted.

S. H. MOER,

Chairman.



Mr. Flemington moved that the report of the Committee of the Whole be adopted.

Which motion prevailed.

Mr. Blewett moved that the report of the Committee on Militia be read the second time.

Which motion prevailed.

And the report was read the second time.

Mr. Lauder moved that the Convention do now resolve itself into a Committee of the Whole to consider the report of the Committee on Militia.

Which motion prevailed, and

The President called Mr. Lauder to the chair.

When the committee rose the following report was presented:

MR. PRESIDENT

Your Committee of the Whole has had under consideration the report of the Committee on Militia, and recommend that section 4 of the article be amended by striking out the words, "except the Adjutant General," in section 4 of the proposed article, and with this amendment your committee recommends the adoption of the report of the Committee on Militia.

W. S. LAUDER,  
Chairman.

Mr. Glick moved that the report of the Committee of the Whole be adopted.

Which motion prevailed.

The Convention took an informal recess of ten minutes.

Mr. Turner moved that the report of the Committee on Impeachment and Removal from Office be read the second time and considered.

Which motion was lost.

Mr. Parsons of Rolette moved to adjourn.

Which motion prevailed, and the Convention adjourned.

JOHN G. HAMILTON,  
Chief Clerk.

FRIDAY, JULY 26, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

The President presiding.

Prayer was offered by the Chaplain.

The roll was called, all members being present except Messrs. Hegge, Lohnes, Paulson, Sandager, Spalding, Stevens, Turner and Whipple, who were excused.

The Journal of the preceding session was read corrected and approved.

PETITIONS, COMMUNICATIONS, ETC.

Mr. Camp introduced the following memorial:

*Resolved*, That this Convention submit to the United States senate committee on irrigation and reclamation of arid lands, the following memorial:

*To the Honorable United States Senate Committee on Irrigation and Reclamation of Arid Lands.*

GENTLEMEN: The Constitutional Convention for North Dakota duly assembled at Bismarck under the enabling act of congress passed at the last session of congress and representing the people of North Dakota familiar with their industries and pursuits, with their resources and necessities, has learned with interest and gratification that it is the expressed purpose of your honorable committee to inquire into the needs of North Dakota in the matter of artificial water supply.

To North Dakota this is a subject of such exceeding importance that this Convention is moved to memorialize your honorable committee, and through you the senate of the United States as follows:

First. We beg your attention to the fact that the great fertility of the soil of North Dakota has been shown by many seasons of sufficient rain fall.

Second. The superiority of the grain grown in this soil—and especially of the wheat, is now a matter of repute throughout the civilized world, and is a contribution to the fame of our national resources. In the United States this wheat is almost a necessary ingredient of fine flours.

Third. That these facts have attracted to North Dakota a population of 250,000 earnest, sober, law-abiding people, possessed of a purpose to develop the land, and who have already made it a source of wealth and importance to the nation.

Fourth. That it is now demonstrated and understood that the peculiar excellence of the cereals of North Dakota is the result of climatic conditions, as well as of qualities of the soil; that one of these conditions is the dryness of the climate, which, however, in seasons of average rainfall in most parts is not so excessive as to prevent yield of crops unsurpassed in other parts of the land; but, that this desirable average implies seasons in some parts of North Dakota of insufficient precipitation, disastrous to agricultural prosperity, and discouraging to farmers.

**Fifth.** Therefore we earnestly urge upon the honorable committee and upon the United States senate these considerations:

(a) We recognize and approve the object before your committee, namely, the invitation of investigation and certain work at the expense of the general government looking to the establishment of reservoirs, or other systems for the irrigation of lands in need thereof, to the end that the area of public agricultural lands may be greatly increased.

(b) We also realize the fact that such enlargement of area means direct and formidable competition with the industries of North Dakota (competition especially to be dreaded since irrigated farms are the most productive in the world), while already over-production has deprived farming of nearly all profit.

(c) We recall to your attention, and to that of the honorable body which you represent, the fact that the people of North Dakota have paid into the treasury of the United States many millions of dollars for their lands, while proposed expenditures for mountain reservoirs are mainly intended to benefit regions from which comparatively nothing has been received from sales of agricultural lands.

(d) While, therefore, we do not question the benefits to accrue from expenditures for the mountain reservoir systems, we feel justified in claiming some similar expenditure for North Dakota, and a share in the paternal solicitude of the government to this extent, namely, that suitable investigation, to be followed by experimental work, be made in behalf of North Dakota to ascertain whether or not it is practicable to provide by means of artesian wells sufficient water to eliminate the dangers incident to dry seasons and to maintain the agricultural industries of the state on a footing for competition in grain production, upon which its inhabitants absolutely depend for support.

We therefore trust that your honorable committee will give to North Dakota more than a passing glance; that you will conduct an investigation with reference to its resources and its necessities, and make a report thereon which will result in the development of the former and secure, if possible, relief from the latter.

We beg you to notice that while there are certain ascertained artesian basins, the extent of such basins has not been accurately ascertained, scientific experiment and survey are needed to determine this matter, as well as the character of the water to be obtained and its influence on vegetation. Other essential facts to be ascertained will suggest themselves to your committee. The whole of a scope too great for North Dakota to undertake at the expense of its people now engaged in their early struggles to establish themselves. We confidently believe that the outcome of such work by the government, in North Dakota, will be to return to the treasury many times the amount of its expenditure in the further cash entries of government land.

Mr. Camp moved that the memorial be referred to a special committee of three, of which the President shall be Chairman.

Which motion prevailed, and

The President appointed the following committee:

The President and Messrs. McKenzie and Meacham.

Mr. Williams asked unanimous consent to withdraw all of the report of the Committee on Legislative Department except sections two and eight.

Which request was granted.

#### REPORTS OF STANDING COMMITTEES.

The Committee on Revenue and Taxation submitted the following report:

**MR. PRESIDENT:**

Your Committee on Revenue and Taxation would respectfully report that we have had under consideration Files Nos. 11, 23, 32, 40, 42, 44, 46, 50, 103,

111, 115, 117 and would submit the annexed substitute and recommend the adoption of the same. We have also had File No. 68 and the substitute accompanied under consideration, and return the same with the recommendation that it be not adopted.

## ARTICLE ———.

## REVENUE AND TAXATION.

SECTION 1. The Legislature shall provide for raising revenue sufficient to defray the expenses of the state for each year, not to exceed any one year four (4) mills on the dollar of the assessed valuation of all taxable property in the state, to be ascertained by the last assessment made for state and county purposes, and also a sufficient sum to pay the interest on the state debt.

SEC. 2. No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied.

SEC. 3. Laws shall be passed taxing by uniform rule all property according to its true value in money, but the property of the United States and the state, county and municipal corporations, both real and personal, shall be exempt from taxation, and the Legislature shall by general law exempt from taxation property used exclusively for school, religious, cemetery or charitable purposes and personal property to any amount not exceeding in value two hundred dollars for each individual liable to taxation.

SEC. 4. Land and the improvements thereon shall be separately assessed. Cultivated and uncultivated land of the same quality and similarly situated shall be assessed at the same value.

SEC. 5. The power of taxation shall never be surrendered or suspended by any grant or contract to which the state or any county or other municipal corporations shall be a party.

SEC. 6. All property except as hereinafter in this section provided shall be assessed in the county, city, township, town, village or district in the manner prescribed by law. The franchise, roadway, roadbed, rails and rolling stock of all railroads operated in this state shall be assessed by the State Board of Equalization at their actual value, and the same shall be apportioned to the counties, cities, towns, townships and districts in which said roads are located, in proportion to the number of miles of railway laid in such counties, cities, towns, townships and districts; *provided*, that for the purpose of assessment and taxation said railroad shall not be valued at less than three thousand dollars per mile.

SEC. 7. The Legislature may provide for the levy, collection and disposition of an annual poll tax of not more than three dollars on every male inhabitant of this state over twenty-one and under fifty years of age, except paupers, idiots, insane persons and Indians not taxed.

SEC. 8. The General Assembly are expressly prohibited from authorizing or allowing debts or liabilities of any kind to be set off against moneys, credits or other property which may be subject to taxation.

SEC. 9. The Legislature shall pass all laws necessary to carry out the provisions of this article.

J. L. COLTON,  
Chairman.

Mr. Moer requested that consideration of the report be postponed until Tuesday next.

Which was granted.

The minority of the Committee on Judicial Department submitted the following report:

MR. PRESIDENT:

The undersigned members of said committee, being in a minority, respectfully recommend that the report of the majority be modified and amended by

striking out sections 24, 25 and 26 thereof, relating to probate courts and justices of the peace, and that the following sections be adopted in lieu thereof;

COUNTY COURTS.

SEC. 24. There shall be elected in each organized county a county judge, who shall be judge of the county court of said county, whose term of office shall be two years until otherwise provided by law.

SEC. 25. County courts shall be courts of record and shall have a clerk and seal. They shall have original jurisdiction in all matters of probate, guardianship and settlement of the estates of deceased persons, and in all cases of lunacy. In counties having a population of 2,000 or over, these courts shall also have concurrent jurisdiction with the district court in all civil cases, wherein the amount in controversy or the value of the thing sued for does not exceed \$1,000, exclusive of interest and costs, except in matters of probate, guardianship and the settlement of the estate of deceased persons. Writs of error and appeals may be allowed from county to district courts, in such cases and in such manner as may be prescribed by law; *provided*, that no appeal or writ of error shall be allowed to the district court from any judgment rendered upon an appeal from a justice of the peace or police magistrate for cities and towns. County courts shall have such jurisdiction in criminal matters as the legislature may prescribe.

SEC. 26. The qualification for office of county judge in counties having 2,000 population or over, shall be the same as for judge of the district court, except he shall in addition be a resident of the county at the time of his election.

SEC. 27. County courts shall always be open for the transaction of business, except on legal holidays and non-judicial days. County judges may hold court and sit and try causes in any part of his county.

SEC. 28. County judges shall receive such salary as the legislature may prescribe, and the salary may be different in different counties, but until so prescribed the salary of county judges in counties having a population of 2,000 or over shall be \$1,500.

SEC. 29. The clerk of the district court shall also be clerk of the county court.

JUSTICES OF THE PEACE.

SEC. 30. The Legislature shall provide by law for the election of justices of the peace in each organized county within the state, but the number of said justices to be elected in each organized county shall be limited by law to such a number as shall be necessary for the proper administration of justice. The justices of the peace herein provided for shall have concurrent jurisdiction with the county courts in all civil actions when the amount in controversy does not exceed, exclusive of interest and costs, one hundred dollars. They shall have such jurisdiction as committing magistrates as may be prescribed by law, but in no case shall said justices of the peace have jurisdiction where the boundaries of, or titles to real estate shall come in question.

SEC. 31. The Legislature shall have power to abolish the offices of justice of the peace, and confer that jurisdiction upon judges of county courts or elsewhere.

DAVID BARTLETT.  
J. F. SELBY.  
S. H. MOER.  
M. N. JOHNSON.  
A. D. ROBERTSON.  
R. N. STEVENS.  
W. H. ROWE.

Mr. Miller moved that the consideration of the report be postponed until July 27.

Which motion prevailed.

## REPORT OF SPECIAL COMMITTEE.

MR. PRESIDENT:

Your Committee, to whom was referred a memorial, submitted by Mr. Camp, would respectfully recommend that the Convention do not accept the invitation therein extended, and that the clerk be instructed to inform the Hon. B. W. Fuller of the decision of the Convention.

S. H. MOER,  
J. W. SCOTT,  
O. G. MEACHAM,  
Committee.

Mr. Flemington moved that the report be adopted.

Which motion prevailed.

Mr. McHugh moved that the Convention do now resolve itself into a Committee of the Whole.

Which motion was lost.

Mr. Parsons of Morton, by request, moved that when the Convention adjourn it take a recess until Tuesday, July 30.

Yeas and nays demanded.

The roll being called there were ayes 27, nays 37, viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Allin,	Griggs,	Ray,
Appleton,	Haugen,	Richardson,
Bartlett, of Griggs,	Marrinan,	Robertson,
Bell,	Noble,	Rolfe,
Budge,	Nomland,	Selby,
Colton,	O'Brien,	Shuman,
Elliott,	Parsons, of Morton,	Wallace,
Fay,	Peterson,	Wellwood,
Glick,	Powles,	Mr. President,

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Bartlett, of Dickey,	Flemington,	McHugh,
Bean,	Gayton,	McKenzie,
Bennett,	Gray,	Miller,
Best,	Holmes,	Moer,
Blewett,	Hoyt,	Parsons, of Rolette,
Brown,	Johnson,	Powers,
Camp,	Lauder,	Purcell,
Carland,	Leach,	Pollock,
Carothers,	Linwell,	Rowe,
Chaffee,	Mathews,	Scott,
Clapp,	Meacham,	Slotten,
Clark,	McBride,	Williams,
Douglas,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Almen,	Lowell,	Stevens,
Harris,	Paulson,	Turner,
Hegge,	Sandager,	Whipple,
Lohnes,	Spalding,	

So the motion to take a recess until Tuesday was lost.

Mr. Clapp moved that members desiring a leave of absence make the request in writing.

Mr. Bartlett, of Griggs, moved as an amendment that no member who voted in the negative be granted a leave of absence.

Which amendment prevailed, and

The original motion as amended prevailed.

Mr. Moer moved that no leave of absence be granted except upon the statement of said member that said leave of absence is an absolute necessity.

Which motion was lost.

#### SECOND READING OF REPORTS.

The report of the Executive Committee was read the second time.

The report of the Committee on Legislative Department was read the second time.

The report of the Committee on School and other Public Lands was read the second time.

The report of the Committee on Municipal Corporations was read the second time.

The report of the Committee on Education was read the second time.

The report of the Committee on Impeachment and Removal from Office was read the second time.

The report of the Committee on Elective Franchise was read the second time.

Mr. Bartlett of Griggs, moved that the Convention do now resolve itself into a Committee of the Whole.

Which motion prevailed.

And the President called Mr. Bartlett of Griggs, to the chair.

Mr. Miller moved that vote by which the motion of Mr. Parsons of Morton, to take a recess until Tuesday July 30, was lost be reconsidered.

Ayes and nays demanded.

The roll being called there were ayes 48, nays 19, viz:

Those who voted in the affirmative were:

Messrs—

Allin,  
Almen,  
Appleton,  
Bartlett, of Griggs,  
Bell,  
Best,  
Budge,  
Carland,

Messrs—

Griggs,  
Harris,  
Haugen,  
Holmes,  
Hoyt,  
Lauder,  
Leach,  
Lowell,

Messrs—

Parsons, of Morton,  
Peterson,  
Powers,  
Powles,  
Pollock,  
Ray,  
Richardson,  
Robertson,

Carothers,  
Clapp,  
Colton,  
Douglas,  
Elliott,  
Fay,  
Gayton,  
Glick,

Marrinan,  
Mathews,  
Meacham,  
McBride,  
McKenzie,  
Miller,  
Noble,  
Nomland,

Rolfe,  
Selby,  
Shuman,  
Slotten,  
Wallace,  
Wellwood,  
Williams.  
Mr. President.

Those who voted in the negative were:

Messrs—  
Bartlett, of Dickey,  
Bean,  
Bennett,  
Blewett,  
Brown,  
Camp,  
Chaffee,

Messrs—  
Clark,  
Flemington,  
Gray,  
Johnson,  
Linwell,  
McHugh,

Messrs—  
Moer,  
O'Brien,  
Parsons, of Rolette,  
Purcell,  
Rowe,  
Scott,

Absent and not voting:

Messrs—  
Hegge,  
Lohnes,  
Paulson,

Messrs—  
Sandager,  
Spalding,  
Stevens,

Messrs—  
Turner,  
Whipple,

So the motion to reconsider prevailed.

Mr. Miller moved that the Convention take a recess until Tuesday July 30.

Mr. Moer moved as an amendment that the word adjourn be substituted for recess.

Mr. McHugh moved as an amendment to the amendment, that the Convention adjourn until October 1st.

Mr. Blewett moved to adjourn.

Which motion prevailed and the Convention adjourned.

J. G. HAMILTON,  
Chief Clerk.



SATURDAY, July 27, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

The clerk called the Convention to order and announced that the President had appointed Mr. Rowe of Dickey to act as President *pro tempore* during his absence.

Prayer by the Chaplain.

Roll was called. There being no quorum present, Mr. Williams moved that the Convention adjourn until Monday, at 2 o'clock p. m.

Which motion prevailed, and the Convention adjourned.

J. G. HAMILTON,  
Chief Clerk.

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MONDAY, July 29, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

The President *pro tempore* presiding.

Prayer was offered by the Chaplain.

The roll was called. There being no quorum, the Convention adjourned until Tuesday at 2 o'clock p. m.

J. G. HAMILTON,  
Chief Clerk.

TUESDAY, JULY 30, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

The President presiding.

Prayer was offered by the Chaplain.

The roll was called, all members being present except Messrs. Budge, Marrinan, Turner and Whipple, who were excused.

The Journals of July 26, 27 and 29 were read, corrected and approved.

PETITIONS, COMMUNICATIONS, ETC.

The following communication was read and referred to the Judiciary Committee.

HEADQUARTERS DEPARTMENT OF DAKOTA, {  
ST. PAUL, MINN., July 25, 1889. }

*To the Presiding Officer of the Constitutional Convention, Bismarck, D. T.:*

SIR: I have the honor, in accordance with instructions received from the war department, to request that consideration of the Convention be invited to the proposition that a clause be inserted in the Constitution of the State of North Dakota by which jurisdiction shall be reserved to the United States, as provided in section 8, of article 1, of the Constitution, over the military reservations of Forts Abraham Lincoln, Buford, Pembina and Totten, heretofore declared by the President.

Very respectfully, your obedient servant,

THOS. H. RUGER,  
Brigadier-General Commanding.

SECTION — Jurisdiction is ceded to the United States over the military reservations of Fort Abraham Lincoln, Fort Buford, Fort Pembina, and Fort Totten, heretofore declared by the President of the United States; *provided* legal process, civil and criminal, of this state shall extend over such reservations in all cases of which exclusive jurisdiction is not vested in the United States, or of crimes not committed within the limits of such reservations.

SECOND READING OF ARTICLES.

File No. 131 was read the second time.

File No. 132 was read the second time.

The report of the Committee of the Whole for July 26, as follows was read:

MR PRESIDENT:

Your Committee of the Whole have had under consideration File 124, being the report of the Committee on Education, and recommend the adoption of the report of the Committee on Education and that its provisions be incorporated into the Constitution; that File 125 be laid over for consideration until

July 27; that File 126, relating to impeachment and removal from office be adopted and its provisions be incorporated into the Constitution. Also have considered File 130 and recommend that sections one and two be adopted. Your committee reports progress on the remainder of the bill and asks leave to sit again.

DAVID BARTLETT,  
Chairman.

Mr. Blewitt moved that the report of the Committee of the Whole, of July 26, be adopted.

Which motion prevailed.

Mr. Colton moved that the Convention do now resolve itself into a Committee of the Whole to consider all reports now ready for consideration.

Which motion prevailed.

Mr. Moer requested that the consideration of File 132 be postponed until July 31.

Which request was granted.

The President called Mr. Parsons of Morton, to the chair.

Mr. Blewitt moved that Mr. Buel of Minneapolis, be extended the privilege of addressing the Convention on the subject of Single Tax.

Which motion prevailed.

Mr. Carland moved that the Convention adjourn.

Which motion prevailed and

The Convention adjourned.

J. G. HAMILTON,  
Chief Clerk.

WEDNESDAY, July 31, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

The President presiding.

Prayer was offered by the Chaplain.

The roll was called, all members being present except Mr. Budge, who was excused.

The Journal of the preceding session was read and approved.

#### REPORTS OF STANDING COMMITTEES.

The Committee on Preamble and Bill of Rights presented the following report:

**MR. PRESIDENT:**

Your Committee on Preamble and Bill of Rights respectfully report the following as adopted by said committee, viz:

#### PREAMBLE.

Almighty God, in his infinite mercy, having prospered us as a territory, and looking to him for a blessing upon our present endeavor to secure and transmit unimpaired to succeeding generations the liberty we now enjoy, and that we may form a more perfect government, establish justice, insure peace and domestic tranquility, provide for the common defense and promote general prosperity to ourselves and our posterity, do ordain and establish this Constitution for the State of North Dakota.

#### ARTICLE I.

##### DECLARATION OF RIGHTS.

**SECTION 1.** All men are by nature equally free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation, and pursuing and obtaining safety and happiness.

**SEC. 2.** All political power is inherent in the people, government is instituted for the protection, security and benefit of the people, and they have a right to alter or reform the same whenever the public good may require it.

**SEC. 3.** The state of North Dakota is an inseparable part of the American Union, and the Constitution of the United States is the supreme law of the land.

**SEC. 4.** The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be guaranteed in this state; and no person shall be rendered incompetent to be a witness or juror on account of his opinion on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.

**SEC. 5.** The privilege of the writ of habeas corpus shall not be suspended unless when in cases of rebellion or invasion, the public safety may require.

SEC. 6. All persons shall beailable by sufficient sureties, unless for capital offenses when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel or unusual punishments be inflicted. Witnesses shall not be unreasonably detained, nor confined in any room where criminals are actually imprisoned.

SEC. 7. The right of trial by jury shall be secured to all, and remain inviolate, but a jury in civil cases and courts not of record may consist of less than twelve men, as may be prescribed by law.

SEC. 8. That until otherwise provided by law, no person shall for a felony be proceeded against criminally, otherwise than by indictment, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger. In all other cases offenses shall be prosecuted criminally by indictment or information. The Legislature may change, regulate or abolish the grand jury system.

SEC. 9. Every man shall have the right freely to write, speak and publish his opinions on all subjects, being responsible for the abuse of that privilege. In all civil or criminal trials for libel the truth may be given in evidence, and shall be sufficient defense when the matter is published with good motives and for justifiable ends; and the jury shall have the same power of giving a general verdict as in other cases of the jury; and in all indictments or informations for libels the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.

SEC. 10. The citizens have a right in a peaceable manner to assemble together for their common good, and apply to those invested with the powers of government for redress of grievances or other proper purposes, by petition, address, or remonstrance.

SEC. 11. All laws of a general nature shall have a uniform operation.

SEC. 12. The military shall be subordinate to the civil power. No standing army shall be kept up by this state in time of peace, and no soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war, except in the manner prescribed by law.

SEC. 13. In criminal prosecutions in any court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the court to compel the attendance of witnesses in his behalf, and to appear and defend in person and with council. No person shall be twice put in jeopardy for the same offense, nor be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law.

SEC. 14. Private property shall not be taken or damaged for public use without just compensation having been first made to, or paid into court, for the owner, and no right of way shall be appropriated to the use of any corporation other than municipal, until full compensation therefor be first made in money or ascertained and paid into court for the owner, irrespective of any benefit for any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived as in other civil cases in a court of record, as shall be prescribed by law.

SEC. 15. No person shall be imprisoned for debt unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law, or in cases of tort, or where there is strong presumption of fraud.

SEC. 16. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts shall ever be passed.

SEC. 17. Neither slavery or involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this state.

SEC. 18. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but on probable cause supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

SEC. 19. Treason against the state shall consist only in levying war against it, adhering to its enemies or giving them aid and comfort. No person

shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open court.

SEC. 20. No special privileges or immunities shall ever be granted, which may not be altered, revoked or repealed by the Legislature; nor shall any citizen or class of citizens be granted privileges or immunities, which, upon the same terms, shall not be granted to all citizens.

SEC. 21. The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

SEC. 22. All courts shall be open; and every man for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law, and right and justice administered without sale, denial, or delay. Suits may be brought against the state in such manner, in such courts and in such cases as the Legislature may by law direct.

SEC. 23. To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government and shall forever remain inviolate.

Your committee further return Files Nos. 12, 38, 69, 74, 89 and 106, with the recommendation that they be not acted upon, as they have been covered in committee's report. File No. 57 was adopted.

R. N. STEVENS,  
Chairman.

Mr. Scott moved that the reading at length of the report be dispensed with until the report is printed.

Which motion prevailed.

#### REPORT OF SPECIAL COMMITTEE.

The special committee on irrigation of arid lands submitted the following report:

MR. PRESIDENT:

Your special committee to whom was referred the resolution introduced by Mr. Camp on the 26th day of July, 1889, providing that a certain memorial be submitted to the United States senate committee on irrigation and reclamation of arid lands, respectfully report that they recommend the adoption of said resolution, and that an engrossed copy of said memorial, together with the entries in the Journal of this Convention, relating to the introduction and referring to said resolution. The report thereon and the proceedings had on such report be at once signed by the President and chief clerk of the Convention, and forwarded to the said senate committee through Mr. Lyman R. Casey, a citizen of this territory, actively interested in matters referred to in said memorial, who will be before said committee at St. Paul, on the first proximo. Respectfully.

F. B. FANCHER, Chairman,  
J. D. MCKENZIE,  
O. G. MEACHAM.

Mr. Blewett moved that the report of the committee be adopted.

Which motion prevailed.

The report of the Committee of the Whole for July 30, as follows, was read:

MR. PRESIDENT:

Your Committee of the Whole have had under consideration File No. 130, and recommend that section 3 be amended as follows: That after the word "saleable," in line 8, the words "at not less than \$10 per acre" be stricken out, and that when so amended the section be adopted.

Also, recommend that in the first line of section 4 the word "schools" be stricken out and the word "instruction" be inserted in lieu thereof, and that when so amended the section be adopted.

Also, recommend that section 5 be adopted as a section of the Constitution.

Also, recommend that in line 12 of section 6 the words "not less than" be stricken out.

Also, recommend that section six be further amended by adding after the last word of the section, the following words: "Providing, that all lands contracted to be sold by the state shall be subject to taxation from date of such contract," and that when so amended the section be adopted.

Also, recommend that section seven be adopted.

Also, recommend that section eight be adopted.

Also, recommend that section nine be adopted.

Also, recommend that section ten be adopted.

Also, recommend that section eleven be adopted.

Also, recommend that section twelve be adopted.

Also, recommend that section thirteen be adopted.

The committee have also had under consideration File No. 125, and recommend that section one be adopted.

Also, recommend that section two be adopted.

Also, recommend that the Article be amended by the addition of the following as section three:

SEC. 1. No municipal corporation shall ever become indebted in any manner or for any purpose in any amount, in the aggregate, including existing indebtedness, including four (4) per centum, upon the value of the taxable property within such corporation, to be ascertained from the last assessment for state and county taxes previous to the incurring of such indebtedness, and all bonds or obligations in excess of such amount, except as hereinafter provided, given by such corporation, shall be void; *provided*, however, that any incorporated city may become indebted in an amount not exceeding four per centum on the value of such taxable property without regard to the existing indebtedness of such city, for the purpose of constructing or purchasing water works for furnishing a supply of water to the citizens of such city, and for no other purpose whatever.

The committee have also had under consideration File No. 123, being the report of the Committee on Elective Franchise and recommend that Section 1 be adopted. The committee report progress and ask leave to sit again.

A. S. PARSONS,  
Chairman.

Mr. Noble moved that File 130 be reconsidered and referred to the Judiciary Committee.

Which motion was lost.

Mr. Selby moved that the Convention do now resolve itself into Committee of the Whole to consider the report of the Judiciary Committee.

Mr. Moer moved as an amendment that the Convention resolve itself into Committee of the Whole to consider the report of the Committee on Elective Franchise.

Which amendment was adopted, and the original motion as amended prevailed.

Mr. Blewett moved that the president of the Convention act as chairman of the Committee of the Whole during this session.

Which motion prevailed.

When the committee rose the following reports were presented:

MR. PRESIDENT:

Your Committee of the Whole have had under consideration the majority and minority reports of the Committee on Elective Franchise, and recommend that the following be adopted as section (2) two of the article on elective franchise:

"The Legislature shall be empowered to make further extensions of suffrage hereafter at its discretion to all citizens of mature age and sound mind, not convicted of crime, without regard to sex, but shall not restrict suffrage without a vote of the people."

Also recommend that the following be adopted as section (3) three:

"Electors shall in all cases except treason, felony, breach of the peace or illegal voting, be privileged from arrest on the days of election during their attendance at, in going to and returning from such election, and no elector shall be obliged to perform military duty on the day of election, except in time of war or public danger."

Also recommend that the following be adopted as section four (4):

"All general elections shall be biennial."

Also recommend that the following be adopted as section five (5):

"No elector shall be deemed to have lost his residence in this state by reason of his absence on business of the United States or of this state, or in the military or naval service of the United States."

Also recommend that the following be adopted as section six (6):

"No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this state in consequence of his being stationed therein."

Also recommend that the following be adopted as section seven (7):

"No person under guardianship, *non compos mentis*, or insane, shall be qualified to vote at any election, nor shall any person convicted of treason or felony be qualified to vote at any election unless restored to civil rights."

Also recommend that the following be adopted as section eight (8):

"Any woman having the qualifications enumerated in section 1 of this article as to age, residence and citizenship, and including those now qualified by the laws of the territory, may vote at any election held solely for school purposes."

Also, recommend that the following be adopted as section nine (9):

"All elections by the people shall be by secret ballot, subject to such regulations as shall be provided by law."

The committee also considered the recommendation of the Committee on Elective Franchise; i. e., that the Australian election bill, known as "Council Bill No. 60," be incorporated in the schedule of this Convention, with the proviso that the Legislature may alter or amend as they deem proper, and recommend that the recommendation be not adopted.

F. B. FANCHER,  
Chairman.

The committee took a recess for ten minutes, and upon reassembling the President called Mr. Noble to the chair.

Mr. Williams moved that the further reading of the report of the Committee of the Whole until printed in the Journal be postponed.

Which motion prevailed.

MR. PRESIDENT:

Your Committee of the Whole have had under consideration Files No. 121 and 131, being the majority and minority reports of the Committee on Judiciary Department, and recommend that sections 2, 3, 4, 5, 6 and 7 of File No. 121 be adopted.

Also, recommend that section 8 of File No. 121 be amended as follows: In line 3 strike out the word "two" and insert the word "three" in lieu thereof; also, in the same line, strike out the word "four" and insert the word "five"; also, in line 4, strike out the word "six" and insert the word "seven."

Also, recommend that section 9 be adopted.

Also, recommend that section 10 be amended by striking out the word "five," in the fourth line, and inserting in lieu thereof the word "three."

The committee reports progress and asks leave to sit again.

V. B. NOBLE, Chairman.



Mr. Stevens moved that when the convention adjourn it assemble at 10 o'clock a. m., August 1.

Mr. Blewett introduced the following resolution as a substitute and moved its adoption.

*Be it Resolved*, That this Convention hold two sessions daily, commencing Thursday, August 1, one to commence at 2 o'clock p. m. and one to commence at 8 p. m.

Which resolution was adopted.

Mr. Bartlett of Griggs, moved that when the Convention adjourn it adjourn to meet at 8 o'clock p. m. to-night.

Which motion prevailed.

The Committee on Corporations Other than Municipal submitted the following report:

MR. PRESIDENT:

Your Committee on Corporations Other than Municipal, to whom was referred Files Nos. 1, 4, 56, 83, 90, 91, 94 and 104, have had the same under consideration, and a majority of the committee have instructed me to report as follows:

They have had File No. 1 under consideration and report the same back, with the recommendation that it be not adopted.

They have had File No. 4 under consideration and report the same back, with amendments and alterations, and as so amended and altered do recommend that it be adopted: the File as amended being hereto annexed.

They have had file No. 56 under consideration and do recommend that it be returned to the Committee on Municipal Corporations.

They have had File No. 83 under consideration and recommend that the same be adopted as section 16 of File No. 4.

They have had File No. 90 under consideration and recommend that the same be adopted as section 17 of File No. 4.

They have had File No. 91 under consideration and do recommend that the same be not adopted.

They have had File No. 94 under consideration and report the same back to the Convention, with the recommendation that it be not adopted, the provisions thereof being incorporated in File No. 4.

They have also considered File No. 104 and do recommend that it be not adopted, the provisions thereof being incorporated in File No. 83.

M. N. JOHNSON,  
Chairman.

## ARTICLE ———

### CORPORATIONS.

SECTION 1. No corporation shall be created or have its charter extended, changed or amended by special laws except those for charitable, educational, penal or reformatory purposes, which are to be and remain under the patronage and control of the state; but the Legislature shall provide by general laws for the organization of all corporations hereafter to be created.

SEC. 2. All existing charters or grants of special or exclusive privileges, under which a bona fide organization shall not have taken place and business been commenced in good faith at the time this Constitution takes effect, shall thereafter have no validity.

SEC. 3. The Legislature shall not remit the forfeiture of the charter to any corporation now existing, nor alter or amend the same, nor pass any other general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution.

**SEC. 4.** The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the Legislature from taking the property and franchises of incorporated companies and subjecting them to public use, the same as the property of individuals; and the exercise of the police power of the state shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well-being of the state.

**SEC. 5.** In all elections for directors or managers of a corporation, each member or shareholder may cast the whole number of his votes for one candidate or distribute them upon two or more candidates, as he may prefer.

**SEC. 6.** No foreign corporation shall do business in this state without having one or more places of business and an authorized agent or agents in the same upon whom process may be served.

**SEC. 7.** No corporation shall engage in any business other than that expressly authorized in its charter.

**SEC. 8.** No corporation shall issue stock or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and indebtedness of corporations shall not be increased except in pursuance of general law nor without the consent of the persons holding the larger amount in value of the stock first obtained at a meeting to be held after sixty days' notice given in pursuance of law.

**SEC. 9.** No law shall be passed by the legislature granting the right to construct and operate a street railroad, telegraph, telephone or electric light plant, within any city, town or incorporated village, without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied for such purposes.

**SEC. 10.** Every railroad corporation organized and doing business in this state, under the laws and authority thereof, shall have and maintain a public office or place in this state for the transaction of its business, where transfers of its stock shall be made and in which shall be kept for public inspection, books in which shall be recorded the amount of capital stock subscribed, and by whom the names of the owners of its stock and the amount owned by them respectively; the amount of stock paid in and by whom, the transfers of said stock; the amount of its assets and liabilities and the names and place of residence of its officers. The directors of every railroad corporation shall annually make a report, under oath, to the auditor of public accounts, or some officer or officers to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law, and the Legislature shall pass laws enforcing by suitable penalties the provisions of this section; *provided*, that the provisions of this section shall not be construed to apply to foreign corporations.

**SEC. 11.** No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given at least sixty days to all stockholders, in such manner as may be provided by law. Any attempt to evade the provisions of this section, by any railroad corporation, by lease or otherwise, shall work a forfeiture of its charter.

**SEC. 12.** Railways heretofore constructed or that may hereafter be constructed in this state are hereby declared public highways, and all railroad and transportation companies are declared to be common carriers and subject to Legislative control; and the Legislature shall have power to enact laws regulating and controlling the rates of charges for the transportation of passengers and freight, as such common carriers from one point to another in this state.

**SEC. 13.** Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any point within this state, and to connect at the state line with the railroads of other states. Every railroad company shall have the right with its road to intersect, connect with or cross any other railroad, and shall receive and transport each other's passengers, tonnage and cars, loaded or empty, without delay or discrimination.

**SEC. 14.** Municipal and other corporations and individuals invested with the privilege of taking private property for public use shall make just compensation for property taken, injured or destroyed by the construction or enlargement of their works, highways or improvements, which compensation shall be paid or secured before such taking, injury or destruction. The Legislature is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages against any such corporations or individuals, made by viewers or otherwise; and the amount of such damages in all cases of appeal shall, on the demand of either party, be determined by a jury as in other civil cases.

**SEC. 15.** The term "corporations" as used in this article, shall be construed to include all joint stock companies or associations having any of the powers or privileges of corporations not possessed by individuals or partnerships.

**SEC. 16.** If a general banking law be enacted, it shall provide for the registry and countersigning, by an officer of the state, of all notes or bills designed for circulation, and that ample security to the full amount thereof shall be deposited with the State Treasurer for the redemption of such notes or bills.

**SEC. 17.** Any combination between individuals, corporations, associations, or either, having for its object or effect the controlling of the price of any product of the soil or article of manufacture or commerce, or the cost of exchange is prohibited and hereby declared unlawful and against public policy; and that any and all franchises heretofore granted or extended, or that may hereafter be granted or extended in this state, whenever the owner or owners thereof violate this article, shall be annulled and declared void and their property within the state escheated.

The Committee on Legislative Department submitted the following report:

**MR. PRESIDENT:**

The committee on legislative department have reconsidered their report made on the 25th instant and a majority have agreed to recommend the adoption of file number one hundred and twenty-nine (129) when amended as follows: Section five (5) of said file be amended so as to read as follows: Section five (5). The Legislative Assembly shall fix the number of senators and divide the State into as many senatorial districts as there are senators, which districts, as nearly as may be shall be equal to each other in the number of inhabitants entitled to representation. Each district shall be entitled to one senator and no more, and shall be composed of compact and contiguous territory and no portion of any county shall be attached to any other county or part thereof so as to form a district. The districts as thus ascertained and determined shall continue until changed by law.

That section eight (8) of said file be amended so as to read as follows: Section eight (8). The House of Representatives shall be composed of not less than sixty nor more than one hundred and forty members, who shall be apportioned to and elected at large from each senatorial district.

That section eleven (11) of said file be struck out.

That section fifteen (15) of said file be amended by striking out of the sixth line of said section the words "or from the Legislative Assembly."

That section twenty-nine (29) of said file be amended by inserting the letter "M" in the second line thereof after the words "12 o'clock."

That section thirty-six (36) of said file be amended by striking out "twenty-fifth" and inserting "fortieth" in the the second line of said section.

That all of section forty (40) of said file be struck out.

That section forty-two (42) of said file be amended by striking out the word "present" in the second line thereof and inserting therefor the word "elect."

That section forty-four (44) of said file be amended by striking out in the second line thereof the words "sixty days" and inserting therefor July 1st. And that when so amended said file do pass.

W. H. ROWE,  
E. S. ROLFE,  
ROBT. B. RICHARDSON,  
JOHN W. SCOTT,  
ADDISON LEECH,  
ROGER ALLIN,  
ANDREW SLOTTEN,  
KNUD J. NOMLAND.

**MR. PRESIDENT:**

A minority of the Committee on Legislative Department submit the following as their report: They concur with the majority of the committee as to proposed amendments to sections numbered fifteen (15), twenty-nine (29), thirty-six (36), and forty-two (42), and recommend that without further amendment said file number one hundred and twenty-nine (129) do pass.

E. A. WILLIAMS,  
R. M. STEVENS.

Mr. Bean moved to take a recess until 8 o'clock p. m.  
Which motion prevailed.

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**EVENING SESSION.**

The Convention reassembled at 8 o'clock p. m.

Mr. Stevens moved that the Convention resolve itself into the Committee of the Whole for the consideration of the minority and majority reports of the Committee on Judiciary Department.

Which motion prevailed, and

The President called Mr. Bean to the chair.

When the committee rose the following report was presented:

**MR. PRESIDENT:**

Your Committee of the whole have had under consideration the majority and minority reports of the Committee on Judiciary Department and recommend that section eleven (11) of File No. 121, being the majority report, be adopted.

Also recommend that sections twelve (12), thirteen (13), fourteen (14), fifteen (15) and sixteen (16) be adopted.

Also recommend that File No. 121 be amended by adding as section seventeen (17), eighteen (18), and nineteen (19), the following:

SEC. 17. When a judgment or decree is reversed or affirmed by the supreme court, every point fairly arising upon the record of the case shall be considered and decided, and the reasons therefor shall be consisely stated in writing, signed by the judge concurring, filed in the office of the clerk of the supreme court and preserved with a record of the case. Any judge dissenting therefrom may give the reasons of his dissent in writing over his signature.

SEC. 18. It shall be the duty of the court to prepare a syllabus of the points adjudicated in each case which shall be concurred in by a majority of the judges thereof, and it shall be prefixed to the published report of the case.

SEC. 19. The judges of the supreme court shall give their opinion upon important questions of law and upon solemn occasions, when required by the Governor, the senate or the house of representatives; and all such opinions shall be published in connection with the reported decisions of said court.

And also recommend that sections seventeen (17), eighteen (18) and nineteen (19) and the following sections of the original file be re-numbered.

Also recommend that section seventeen (17), which being re-numbered becomes section twenty (20), be amended by inserting after the word "jurisdiction" in the first line, the words "each within its territorial limits."

Also recommend that sections twenty-one (21), twenty-two (22), twenty-three (23), twenty-four (24), twenty-five (25) and twenty-six (26) be adopted.

The Committee report progress and ask leave to set again.

T. W. BEAN,  
Chairman.

The President was instructed to invite the Senate Committee on Irrigation to visit the Convention on Monday next.

Mr. Lauder moved to adjourn,

Which motion prevailed, and the Convention adjourned.

JOHN G. HAMILTON,  
Chief Clerk.

THURSDAY, August 1, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

The President presiding.

Prayer was offered by the Chaplain.

The roll was called, all members being present except Mr. Camp who was excused.

Mr. Selby moved that the reading of the Journal be dispensed with.

Which motion prevailed.

Mr. Stevens introduced the following resolution and moved its adoption:

*Resolved*, That a committee of thirteen, of which the President of the Convention shall be Chairman, be appointed to prepare an address to the people of North Dakota on the Constitution and reasons for its adoption, a copy of which shall be furnished to each paper published in North Dakota.

Which resolution was adopted.

Mr. Allen introduced the following resolution and moved its adoption:

*Resolved*, That all clerks of committees now in the employ of the Convention be, and the same are, discharged from and after this date, August 1st, 1889.

Mr. Purcell moved to amend so as to apply only to such committees as have reported.

Which amendment prevailed

And the original resolution as amended was adopted.

#### REPORTS OF STANDING COMMITTEES.

The Committee on Printing presented the following report:

MR. PRESIDENT:

Your Committee on Printing to whom was referred the resolution introduced by Mr. Parsons of Rolette, respectfully recommend that the same be

adopted, and that each newspaper in North Dakota receive \$25 each for such services, and recommend that provision be made in the Schedule for the payment of the same by the Legislature.

ROGER ALLIN,  
Chairman.

Mr. Robertson moved that the report of the committee be adopted.

Mr. Noble moved to amend---that the words "twenty-five" be stricken out and the word "five" be inserted in lieu thereof.

Which amendment was lost.

Mr. Moer moved to amend the amendment by inserting "fifteen" in lieu of "five."

Which amendment was lost.

Mr. Flemington moved to amend the amendment by substituting "ten" in lieu of "five."

Which amendment was lost, and the original resolution being put was lost.

Mr. Blewitt moved that the Committee to whom was referred the invitation extended by the citizens of Superior, Wis., to the Convention to attend the water-ways convention, be required to report at once.

Which motion prevailed.

#### SECOND READING OF ARTICLES.

File No. 133 was read the second time.

File No. 134 was read the second time.

Mr. Purcell moved that the report of the Committee of the Whole on the report of the Judiciary Committee be read and adopted section by section.

Which motion prevailed,

Sections 2 and 3 of the report were adopted.

Mr. Purcell moved that section 4 of the report of the Committee of the Whole on the report of the Committee on Judiciary be not adopted and offered the following substitute for section 4: "Until otherwise provided by law, at least three terms of the supreme court shall be held each year, one at the seat of government, one at Fargo and one at Grand Forks."

Yeas and nays demanded on the passage of the substitute.

The roll being called there were ayes 48, nays 26, viz:

Those who voted in the affirmative were:

Messrs—  
Allin,  
Almen,  
Appleton,  
Bell,  
Best,  
Brown,  
Budge,  
Carland,

Messrs—  
Harris,  
Haugen,  
Holmes,  
Hoyt,  
Johnson,  
Lander,  
Leach,  
Linwell,

Messrs—  
Peterson,  
Powers,  
Powlee,  
Purcell,  
Pollock,  
Ray,  
Richardson,  
Sandager,

Carothers,	Lowell,	Shuman,
Clapp,	Mathews,	Slotten,
Clark,	Meacham,	Spalding,
Douglas,	McHugh,	Stevens,
Fay,	McKenzie,	Wallace,
Glick,	Miller,	Whipple,
Gray,	Parsons of Morton,	Williams,
Griggs,	Paulson,	Mr. President.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Bartlett of Dickey,	Gayton,	Parsons of Rolette,
Bartlett of Griggs,	Hegge,	Robertson,
Bean,	Lohnes,	Rolfe,
Bennett,	Marrinan,	Rowe,
Blewett,	McBride,	Scott,
Chaffee,	Moer,	Selby,
Colton,	Noble,	Turner,
Elliott,	Nomland,	Wellwood,
Flemington,	O'Brien,	

Absent and not voting:

Mr. Camp.

And so the substitute was carried.

Sections 5, 6 and 7 of the report were adopted.

Mr. Scott moved as a substitute for the recommendation of the Committee as to section eight (8) that section eight (8) be amended as follows:

In line 3 strike out the word "two" and insert the word "one," also in the same line strike out the word "four" and insert the word "three;" also in line 4 strike out the word "six" and insert the word "five."

Yeas and nays demanded.

The roll being called there were ayes 17, nays 51, viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Bennett,	Haugen,	Scott,
Brown,	Mathews,	Stevens,
Carothers,	Meacham,	Turner,
Clapp,	Noble,	Wellwood,
Elliott,	Rowe,	Whipple.
Flemington,	Sandager,	

Those who voted in the negative were--

Messrs—	Messrs—	Messrs—
Allin,	Griggs,	Parsons of Rolette,
Almen,	Harris,	Paulson,
Appleton,	Hegge,	Peterson,
Bartlett of Dickey,	Holmes,	Powers,
Bartlett of Griggs,	Hoyt,	Powles,
Bean,	Johnson,	Purcell,
Bell,	Lander,	Pollock,
Best,	Linwell,	Ray,
Budge,	Lowell,	Richardson,
Carland,	Marrinan,	Robertson,
Chaffee,	McBride,	Rolfe,
Clark,	McHugh,	Selby,

Colton,  
Douglas,  
Fay,  
Gayton,  
Gray,

McKenzie,  
Moer,  
Nomland,  
O'Brien,  
Parsons of Morton,

Shuman,  
Slotten,  
Wallace,  
Williams,  
Mr. President.

Absent and not voting—

Messrs—  
Blewett,  
Camp,  
Glick,

Messrs—  
Leach,  
Lohnes,

Messrs—  
Miller,  
Spalding.

And so the substitute was lost.

Mr. Johnson moved as a substitute for the recommendation of the Committee that section 9 be amended as follows: Insert after the word "clerk" in the first line the words "of the supreme court, elected by the people, who shall hold his office for a term of four years."

Ayes and nays demanded.

The roll being called there were ayes 25, nays 46.

Those who voted in the affirmative were:

Messrs—  
Allin,  
Almen,  
Appleton,  
Bennett,  
Carrothers,  
Colton,  
Elliott,  
Gray,  
Harris,

Messrs—  
Haugen,  
Hegge,  
Johnson,  
Lauder,  
Linwell,  
Nomland,  
Peterson,  
Rowe,  
Sandager,

Messrs—  
Scott,  
Slotten,  
Stevens,  
Turner,  
Wellwood,  
Williams,  
Mr. President.

Those who voted in the negative were:

Messrs—  
Bartlett of Dickey,  
Bartlett of Griggs,  
Bean,  
Bell,  
Best,  
Blewett,  
Brown,  
Budge,  
Carland,  
Chaffee,  
Clapp,  
Clark,  
Douglas,  
Fay,  
Flemington,  
Gayton,

Messrs—  
Glick,  
Griggs,  
Holmes,  
Hoyt,  
Leach,  
Lohnes,  
Lowell,  
Marrinan,  
Meacham,  
McBride,  
McKenzie,  
Miller,  
Moer,  
Noble,  
O'Brien,  
Parsons of Morton,

Messrs—  
Parsons of Rolette,  
Paulson,  
Powers,  
Powles,  
Purcell,  
Pollock,  
Ray,  
Richardson,  
Robertson,  
Rolfe,  
Selby,  
Shuman,  
Spalding,  
Wallace,

Absent and not voting:

Messrs—  
Camp,  
Mathews,

Mr. McHugh,

Mr. Whipple.

And so the substitute was lost.



Mr. Carland moved that the report of the Committee of the Whole, so far as section 19 of File No. 121 is concerned, be not adopted.

Which motion prevailed.

Mr. Pollock moved that the report of the Committee of the Whole on the report of the Committee on Elective Franchise be adopted as read.

Mr. Moer moved as an amendment that the report be read and adopted section by section.

Which amendment prevailed, and the original motion as amended also prevailed.

The Convention took a recess of ten minutes.

Mr. Moer moved that the following be substituted for section 2 of the article on Elective Franchise, recommended by the Committee of the Whole, and moved its adoption :

SEC. 2. The Legislature shall be empowered to make further extensions of the suffrage hereafter at its discretion to all citizens of mature age and sound mind, not convicted of crime, without regard to sex, but shall not extend nor restrict the right of suffrage without first submitting the question to the voters to be by them ratified by a majority vote.

Mr. Parson of Rolette moved the previous question.

Which motion prevailed.

Ayes and nays demanded on the main question.

The roll being called there were ayes 35, nays 25, viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Almen,	Harris,	Peterson,
Appleton,	Hegge,	Powers,
Bartlett of Dickey,	Hoyt,	Powell,
Bean,	Johnson,	Purcell,
Bell,	Lauder,	Ray,
Brown,	Meacham,	Rolfe,
Budge,	Moer,	Rowe,
Douglas,	Noble,	Scott,
Fay,	O'Brien,	Selby,
Flemington,	Parsons of Morton,	Slotten,
Glick,	Parsons of Rolette,	Williams,
Griggs,	Paulson,	

Those who voted in the negative were—

Messrs—	Messrs—	Messrs—
Allin,	Colton,	Nomland,
Bartlett of Griggs,	Gray,	Pollock,
Bennett,	Haugen,	Richardson,
Best,	Linwell,	Shuman,
Carland,	Lowell,	Spalding,
Crothers,	McBride,	Turner,
Chaffee,	McKenzie,	Wallace,
Clapp,	Miller,	Mr. President.
Clark,		

Absent and not voting—

Messrs—	Messrs—	Messrs—
Blewett,	Lohnes,	Robertson,

Camp,  
Gayton,  
Holmes,  
Leach,

Marrinan,  
Mathews,  
McHugh,

Sandager,  
Stevens,  
Whipple.

Messrs. Elliott and Wellwood being paired.

And so the substitute prevailed.

Mr. Spalding offered the following substitute for section 2 and moved its adoption:

SEC. 2. The Legislature shall be empowered to make extensions of suffrage to females of mature age and sound mind, not convicted of crime, and if such extension is made, may at any time thereafter restrict the same.

Mr. Miller moved to take recess until 8 o'clock.  
Which motion was lost.

Mr. Bartlett of Griggs moved the previous question.  
Which motion prevailed.

Ayes and nays demanded on the main question.

The roll being called there were ayes 26, nays 36, viz:

Those who voted in the affirmative were:

Messrs—  
Allin,  
Appleton,  
Bartlett of Griggs,  
Bennett,  
Best,  
Carland,  
Carothers,  
Chaffee,  
Clapp,

Messrs—  
Clark,  
Colton,  
Haugen,  
Linwell,  
Lowell,  
McBride,  
McKenzie,  
Miller,  
Nomland,

Messrs—  
Pollock,  
Richardson,  
Shuman,  
Spalding,  
Turner,  
Wallace,  
Wellwood,  
Mr. President.

Those who voted in the negative were:

Messrs—  
Almen,  
Bartlett of Dickey,  
Bean,  
Bell,  
Brown,  
Budge,  
Douglas,  
Elliott,  
Fay,  
Flemington,  
Glick,  
Gray,

Messrs—  
Griggs,  
Hegge,  
Hoyt,  
Johnson,  
Lauder,  
Meacham,  
Moer,  
Noble,  
O'Brien,  
Parsons of Morton,  
Parsons of Rolette,  
Paulson,

Messrs—  
Peterson,  
Powers,  
Powles,  
Purcell,  
Ray,  
Robertson,  
Rolfe,  
Rowe,  
Scott,  
Selby,  
Slotten,  
Williams.

Absent and not voting:

Messrs—  
Blewett,  
Camp,  
Gayton,  
Harris,  
Holmes,

Messrs—  
Leach,  
Lohnes,  
Marrinan,  
Mathews,

Messrs—  
McHugh,  
Sandager,  
Stevens,  
Whipple.

And so the substitute was lost.

Mr. Miller moved to take a recess until 8 o'clock p. m.

Which motion was lost.

Mr. Turner moved to insert after the word "sex" in line three, section 2, the words, "but not to hold office, but as otherwise provided for in this Constitution without being submitted to a vote of the people."

Which substitute was lost.

Mr. Flemington moved the previous question.

Which motion prevailed.

The main question being put was lost.

Mr. Appleton moved that the Convention take a recess until 8 o'clock p. m.

Which motion prevailed.

#### EVENING SESSION.

Mr. Carland introduced the following resolution and moved its adoption:

*Resolved*, That the committee on miscellaneous subjects be instructed to report to this Convention as soon as possible a proposed article on future amendments, homestead and exemption, great seal, and boundaries.

Which resolution was adopted.

Mr. Rowe introduced the following resolution and moved its adoption:

*Resolved*, That the President and Chief Clerk of this Convention be authorized to issue certificates of service to all persons employed as clerks of committees, who were discharged by to-day's resolution, upon receipt of instructions from chairmen of committees as to time of such clerk's service.

Which resolution was adopted.

Mr. Stevens introduced the following amendment to the rules:

Any two members may call for the ayes and noes on any question voted upon in the Committee of the Whole, but no vote shall be taken by roll call on any subject on which the ayes and noes have been taken in Committee of the Whole, when considering the report from the Committee of the Whole.

And moved it be referred to committee of five.

Which motion was lost.

Mr. Parsons of Rolette moved to lay the amendment on the table.

Which motion prevailed.

Committee on Corporations Other than Municipal submitted the following minority report:

MR. PRESIDENT.

A minority of your Committee on Corporations Other than Municipal, failing to concur in the report of the majority thereof, beg leave to submit the following minority report:

First. We recommend that the report of the majority of your committee be not adopted by this Convention, but that in its place and stead be substitu-

ted the following, the adoption of which a minority of your committee respectfully recommend:

SECTION 1. No charter of incorporation shall be granted, changed or amended by special law, except in the case of such municipal, charitable, educational, penal or reformatory corporations as may be under control of the state, but the general assembly shall provide by general laws for the organization of all corporations hereafter to be created, and any such law so passed shall be subject to future repeal or alteration.

SEC. 2. The term "corporation" as used in this article, shall not be understood as embracing municipalities or political divisions of the state unless otherwise expressly stated, but it shall be held and construed to include all associations and joint stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships.

SEC. 3. All corporations shall have the right to sue and shall be subject to be sued in all courts in like cases as natural persons, subject to such regulations and conditions as may be prescribed by law.

SEC. 4. The Legislature shall have the power to alter, revoke or annul any charter of incorporation existing and revokable at the time of the taking effect of this Constitution, or any that may thereafter be created whenever in its opinion it may be injurious to the citizens of the state, in such manner, however, that no injustice shall be done to the corporation or creditors.

SEC. 5. No foreign corporation shall engage in business in this state without having one or more known places of business, and an authorized agent or agents in the same upon whom protests may be served.

SEC. 6. No corporation shall engage in any business other than that expressly authorized in its charter and the law.

SEC. 7. The indebtedness of private corporations shall be secured by such means as may be prescribed by law, but in no case, shall any stockholder be made by law individually liable for such indebtedness in any amount over and above the amount of stock owned by him.

SEC. 8. No corporation except for municipal, charitable, educational, penal or reformatory purposes, and under the control of the state, or for the construction or operation of railroads, plank roads and canals, shall be created for a longer time than thirty years.

SEC. 9. All railroads and canals shall be public highways, and all railroads, canals, transportation and express companies shall be common carriers and subject to legislative control, and the legislature shall have power to regulate and control by law the rates of charges for the transportation of passengers and freight by such companies as common carriers from one point to another in the state; *provided*, however, that such common carriers shall be entitled to charge and receive just and reasonable compensation for such transportation of freight and passengers within the state and the determination of what is a just and reasonable compensation shall be a judicial question to be determined by the courts.

SEC. 10. No street or other railroad shall be constructed within any city, town or other municipality or incorporated village without the consent of the local authorities having the control of the street or highway proposed to be occupied by such street or other railroad.

SEC. 11. Every railroad, telegraph, express or other corporation, organized or doing business in this state, shall make an annual report to the auditor, and the Legislature shall pass laws to enforce the faithful and full performance of his duty to the end that all the doings of such corporations may be publicly known.

All of which a minority of your committee most respectfully submit.

W. E. PURCELL,  
L. D. BARTLETT,  
S. H. MOER,  
J. LOVELL,

Members of the Committee on Corporations Other than Municipal.

Mr. Moer moved that the reading of the minority report of the

Committee on Corporations other than Municipal be dispensed with until the same is printed.

Which motion prevailed.

Mr. Richardson moved that the Convention do now resolve itself into Committee of the Whole to consider sections 2 and 8 of the report of the Committee on Legislative Department.

Mr. Miller moved to amend, that the Convention consider section 2.

Which amendment prevailed, and the original motion as amended also prevailed.

Mr. Parsons of Morton moved that section 2 of the report of the Committee on Legislative Department be adopted.

Which motion prevailed.

Mr. Scott moved to add to section 8 File, 129 after the word "members" the following words: "Who shall be appointed to and elected at large from each senatorial district."

Mr. Carland moved as a substitute to consider the report of the Committee of the Whole on the report of the Committee of the Whole on File 123.

Which motion prevailed.

Mr. Carland moved that the report of the Committee of the Whole on File 123 as read be adopted.

Which motion prevailed.

Mr. Carland moved to consider the report of the Committee of the Whole on File 130.

Which motion prevailed.

Mr. Carland moved that the report be adopted as read.

Mr. Miller moved to amend that the report be adopted with the exception of sections 8, 9 and 11, which shall be re-referred to the Committee on School and other Public Lands,

Which amendment prevailed.

Mr. Scott moved a division of the question.

Which motion was lost.

Mr. McHugh moved the previous question.

Which motion prevailed and the original motion as amended prevailed.

Mr. Moer introduced the following resolution and moved its adoption:

That the Convention refer the matter of county courts back to the Judiciary Committee, and that the Judiciary be instructed to prepare an article creating county courts, but making provision that any county desiring to adopt the county court system shall first submit the question to the voters of such county, and that in no case shall any county elect a judge of the county court before the general election of the year 1890.

Which resolution was lost.

The President called Mr. Williams to the chair.

Mr. Miller moved that section 27 of File 121 be adopted.

Mr. Stevens moved to amend that the Convention consider section 27 of File 131.

Which amendment was lost.

Mr. Flemington moved that the Convention do now resolve itself into Committee of the Whole.

Which motion prevailed, and the President called Mr. Stevens to the chair.

Mr. Selby moved that the Convention adjourn.

Which motion prevailed and the Convention adjourned.

J. G. HAMILTON,  
Chief Clerk.

FRIDAY, August 2, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

The President presiding.

Prayer was offered by the Chaplain.

The roll was called, all members being present except Mr. Spalding, who was excused.

Mr. Lauder moved that the reading of the Journal be dispensed with.

Which motion prevailed.

Mr. Gayton introduced the following resolution and moved its adoption:

*Resolved*, That the Committee on Judiciary be instructed to report an article prohibiting the Legislature from ever changing or repealing the present territorial homestead and exemption laws.

Ayes and nays demanded on the resolution.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Gayton,	Wellwood,	Williams.
Scott,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Allin,	Gray,	O'Brien,
Almen,	Griggs,	Parsons of Morton,
Appleton,	Harris,	Parsons of Rolette,
Bartlett of Dickey,	Haugen,	Paulson,
Bartlett of Griggs,	Hegge,	Peterson,
Bean,	Holmes,	Powers,
Bell,	Hoyt,	Powles,
Bennett,	Johnson,	Rurcell,
Best,	Lauder,	Pollock,
Blewett,	Leach,	Pay,
Brown,	Linwell,	Richardson,

Budge,	Lohnes,	Robertson,
Camp,	Lowell,	Rolfe,
Carland,	Marrinan,	Rowe,
Carothers,	Mathews,	Sandager,
Chaffee,	Meacham,	Selby,
Clapp,	McBride,	Shuman,
Clark,	McHugh,	Slotten,
Colton,	McKenzie,	Stevens,
Douglas,	Miller,	Turner,
Elliott,	Moer,	Wallace.
Fay,	Noble,	Whipple.
Glick,	Nomland,	Mr. President.

Absent and not voting:

Mr. Flemington,                      Mr. Spalding.

And so the resolution was lost.

Mr. Williams moved that a special committee of thirteen, of which the gentleman from Emmons, Mr. Gayton, shall be chairman, be appointed to take into consideration the matter of exemptions.

Which motion was withdrawn:

#### FIRST READING OF ARTICLES.

File No. 136 was read the first time.

#### REPORT OF STANDING COMMITTEE.

**MR. PRESIDENT:**

The Committee on Judicial Department recommend that the following section be incorporated into the Constitution of North Dakota as section 2 of the article on Compact between the United States and said state:

SEC. 2. Jurisdiction is ceded to the United States over the military reservations of Fort Abraham Lincoln, Fort Buford, Fort Pembina and Fort Totten, heretofore declared by the President of the United States; *provided*, legal process, civil and criminal, of this state shall extend over such reservations in all cases of which exclusive jurisdiction is not vested in the United States, or of crimes not committed within the limits of such reservations.

JOHN E. CARLAND,  
Chairman.

#### SECOND READING OF ARTICLES.

File No. 135 was read the second time.

The report of the Committee of the Whole of Aug. 1 was read as follows:

**MR. PRESIDENT:**

Your Committee of the Whole have had under consideration Files Nos. 131 and 121, being the majority and minority reports of the Committee on Judiciary Department, and recommend that the committee report progress and ask leave to set again.

R. J. ALMEN,  
Chairman.

Which report was adopted.

Mr. Blewett moved that the report of the Committee of the Whole for the evening session of August 1st be adopted.

Which motion prevailed.

Mr. Purcell moved that the Convention do now resolve itself into Committee of the Whole for the further consideration of the minority and majority reports of the Committee on Judicial Department.

Which motion prevailed, and

Mr. President called Mr. Bartlett of Griggs, to the chair.

Mr. Carland introduced the following as a substitute for sections 24 and 25 of the Judiciary Committee:

That the word "probate" where it occurs in sections 24 and 25 of the majority report of the Committee on Judicial Department be stricken out, and the word "county" inserted, and that at the end of said section 25 there shall be added the following proviso: "*Provided*, That whenever the voters of any county having a population of two thousand or over shall decide by a majority vote that they desire the jurisdiction of said court increased above that limited by this Constitution, then said county courts shall have concurrent jurisdiction with the district courts in all civil actions where the amount in controversy does not exceed one thousand dollars, and in all criminal actions below the grade of felony, and in case it is decided by the voters of any county to so increase the jurisdiction of said county court, then the justices of the peace of such county shall have no exclusive jurisdiction, and the jurisdiction in cases of misdemeanors arising under state laws which may have been conferred upon police magistrates, shall cease. The qualifications of the judge of the county court in counties where the jurisdiction of said court shall have been increased, shall be the same as those of the district judge, except he shall be a resident of the county at the time of his election, and said county judge shall receive such salary for his services as may be provided by law.

When the Committee rose the following report was presented:

**MR. PRESIDENT:**

Your Committee of the Whole have had under consideration the majority and minority reports of the Committee on Judicial Department, and recommend that action on sections 24 and 25 be deferred until to-morrow, and that the substitute motion of Mr. Carland be printed.

Also, recommend that action on sections 26, 27 and 28 and the remaining sections of File No. 121 be deferred until action is taken on the matter of probate courts.

The Committee have also had under consideration File No. 122, being the report of the Committee on Executive Department, and recommend that section one (1) be adopted.

Also recommend that section two be amended by striking out in line four the word "two" and substituting in lieu thereof the word "five."

Also, recommend that sections three (3), four (4), five (5), six (6), seven (7), eight (8), nine (9), ten (10) and eleven (11) be adopted.

Also, recommend that section twelve be amended by striking out in the sixth line the word "statistics" and inserting in lieu thereof the word "labor;" also in line four strike out the words "Commissioner of School and Public Lands;" and that as so amended the section be adopted.

Also, recommend that section thirteen be amended by striking out in lines two and three the words "Commissioner of School and Public Lands;" also strike out the word "statistics" in line four and insert in lieu thereof the word "labor;" and that as so amended the section be adopted.

Also, recommend that section 14 be amended by striking out in lines 4 and 5 the words "commissioner of school and public lands;" also, in line 7 strike out the word "statistics" and insert in lieu thereof the word "labor;" and that as so amended the section be adopted.

The Committee have also had under consideration File No. 129, being the majority report of the Committee on Legislative Department, and also the subsequent reports from the same committee, and recommend that sections one (1), three (3) and four (4) be adopted.



Also, recommend that the following be substituted for section 5 of File No. 129:

The Legislative Assembly shall fix the number of senators, and divide the state into as many senatorial districts as there are senators, which districts, as nearly as may be, shall be equal to each other in the number of inhabitants entitled to representation. Each district shall be entitled to one senator, and no more, and shall be composed of compact and contiguous territory, and no portion of any county shall be attached to any other county, or part thereof, so as to form a district. The districts as thus ascertained and determined shall continue until changed by law.

Also recommend that sections six (6), seven (7), nine (9) and ten (10) be adopted.

Also recommend that section eleven (11) be stricken out and the following substituted therefor:

"The members of the House of Representatives shall be apportioned to and elected at large from each senatorial district."

Also recommend that section twelve (12) be adopted.

Also recommend that section thirteen (13) be amended by striking out the word "recorder" in the second line and inserting in lieu thereof the words "register of deeds," and that as so amended the section be adopted.

Also recommend that sections fourteen (14) and fifteen (15) be adopted.

The committee reports progress and asks leave to sit again.

DAVID BARTLETT,  
Chairman.

Mr. Appleton moved that the report of the Committee of the Whole be adopted and referred to the Committee on Revision.

Which motion prevailed.

Mr. Williams moved to adjourn until 2 o'clock p. m. August 3d.

Mr. Bartlett of Griggs, moved to amend by striking out the time.

Which amendment was lost.

Mr. Bartlett of Griggs, moved to amend by striking out "2 o'clock p. m." and substituting "9 o'clock a. m."

Which amendment was lost, and the original motion was also lost.

Mr. McHugh moved to adjourn until 2 o'clock p. m. August 3d.

Mr. Lauder moved as an amendment that the Convention adjourn.

Which amendment prevailed, and the original motion as amended also prevailed.

#### EVENING SESSION.

The Convention reassembled at 8 o'clock p. m.

Mr. Moer moved that the house resolve itself into Committee of the Whole for the further consideration of File No. 129.

Which motion prevailed, and

The President called Mr. Moer to the chair.

When the Committee rose the following report was presented:

MR. PRESIDENT:

Your Committee of the Whole have had under consideration File No. 129

and recommend that sections sixteen (16), seventeen (17), eighteen (18), nineteen (19) and twenty (20) be adopted.

Also, recommend that section twenty-one (21) be amended by striking out the figures "\$300" in line two and inserting in lieu thereof the figures "\$5 per day," and that as so amended the section be adopted.

Also, recommend that sections twenty-two (22), twenty-three (23), twenty-four (24), twenty-five (25) twenty-six (26), twenty-seven (27) and twenty-eight (28) be approved.

Also recommend that section twenty-nine (29) be amended by inserting after the words "12 o'clock" the letter "M," and that as so amended the section be adopted.

Also, recommend that sections thirty (30) and thirty-one (31) be approved.

Also, recommend that section thirty-two (32) be amended by striking out in line two the words "ninety days" and inserting in lieu thereof the words "sixty days;" also amend same section by adding at the end of the section the words "but the first session of the Legislative Assembly may continue for a period of 120 days," and that as so amended the section be adopted.

Also, recommend that sections thirty-three (33), thirty-four (34), thirty-five (35), thirty-six (36), thirty-seven (37), thirty-eight (38) and thirty-nine (39) be adopted.

Also, recommend that section forty (40) be stricken out.

Also recommend that section forty-one (41) be adopted.

Also recommend that section forty-two (42) be amended by striking out the word "present" in the second line thereof, and inserting therefor the word "elect," and that as so amended the section be adopted.

Also recommend that section forty-three (43) be adopted.

Also recommend that section forty-four (44) be amended by striking out in the second line thereof the words "sixty days," and inserting therefor "July 1st," and that as so amended the section be adopted.

Also recommend that section forty-five (45) be adopted.

Also recommend that lines 49 and 50 of section forty-six (46) be added at the end of the section; also recommend that the section be further amended by adding thereto the following: "Nor shall the legislature indirectly enact such special or local law by the partial repeal of a general law; but laws repealing local or special acts may be passed.

Also, recommend that section forty-seven (47) be adopted.

Also, recommend that section forty-eight (48) be adopted.

Also, recommend that the following portion of the report of the Committee on Legislative Department be adopted:

"Files numbered sixteen, eighteen, nineteen, twenty, twenty-six, twenty-eight, thirty-one, thirty-seven, forty-five, forty-eight, sixty, seventy, eighty, eighty-five, eighty-eight, ninety-five, one hundred, one hundred and one, one hundred and two, one hundred and twelve, one hundred and thirteen, one hundred and fourteen, one hundred and sixteen and one hundred and eighteen are reported back with the recommendation that they be laid upon the table."

Also recommend that the consideration of the following proposed additional article to File No. 129 be indefinitely postponed:

"That in lieu of all perquisites, newspapers, postage, stationery etc., each member of the Legislative Assembly be allowed fifty (\$50) dollars"

•  
S. H. MOER,  
Chairman.

Mr. Rowe moved that the report of the Committee of the Whole be adopted.

Which motion prevailed.

\* Mr. Camp, by unanimous consent, submitted the report of the Joint Commission on the Equitable Division of the Property of the Territory, and moved

\*See Appendix "B" for full text of report.

That it be read the first time by its title only.

Which motion prevailed.

File No. 137 was introduced and read the first time:

MR. PRESIDENT:

Your Committee on School and other Public Lands to whom was referred sections 8, 9 and 11 of File 130 for reconsideration report as follows:

We recommend that section 8 be amended and read as follows:

SEC. 8. All lands mentioned in the preceding section shall be appraised and sold in the same manner and by the same board, under the same limitations and subject to all the conditions as to price and sale as provided above for the appraisal and sale of lands for the benefit of common schools, but a distinct and separate account shall be kept by the proper officers of each of such funds; *provided*, that the limitations as to the time in which school lands may be sold shall apply only to lands granted for the support of common schools; *provided*, further, that the limitations as to price at which school lands may be sold shall be subject to any act of Congress that may hereafter be passed, modifying the terms of the land grant, in an act of Congress entitled "An act to provide for the division of Dakota into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington to form Constitutions and state governments and to be admitted into the Union on an equal footing with the original states, and to make donations of public lands to such states."

We further recommend that section nine (9) be amended to read as follows:

SECTION 9. The Legislature shall have authority to provide by law for the leasing of lands granted to the state for educational and charitable purposes, but no such law shall authorize the leasing of said lands for a longer period than five years. Said lands shall only be leased for pasturage and meadow purposes, and at public auction after notice as heretofore provided in case of sale; *provided*, that all of said school lands now under cultivation may be leased for other than pasturage and meadow purposes until sold. All rents shall be paid in advance.

Section 11 is reported back without change.

H. M. CLARK,  
Chairman.

File No. 138 was introduced and read the first time.

Mr. Bean moved to adjourn,

Which motion prevailed and the Convention adjourned.

J. G. HAMILTON,  
Chief Clerk.

SATURDAY, August 3, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

The President presiding.

Prayer was offered by the Chaplain.

The roll was called, all members absent being excused.

Reading of the Journal was dispensed with.

#### REPORTS OF STANDING COMMITTEES.

The Committee on County and Township Organization presented the following report:

MR. PRESIDENT:

Your Committee on County and Township Organization, to whom File 63 was referred, the same being the original report of said Committee, would respectfully submit the annexed amended report, and recommend its adoption as a substitute for said original report.

A. F. APPLETON,

E. S. ROLFE.

#### COUNTY AND TOWNSHIP ORGANIZATION.

##### ARTICLE ---.

SECTION 1. The several counties in the Territory of Dakota lying north of the seventh standard parallel, as they now exist, are hereby declared to be counties of the State of North Dakota.

SEC. 2. The Legislative Assembly shall provide by general law for organizing new counties, locating the county seats thereof temporarily and changing county lines; but no new county shall be organized nor shall any organized county be so reduced as to include an area of less than twenty-four congressional townships, and containing a population of less than one thousand *bona fide* inhabitants. And in the organization of new counties and changing the lines of organized counties the boundaries of congressional townships and natural boundaries shall be observed as nearly as may be.

SEC. 3. All changes in the boundaries of organized counties before taking effect shall be submitted to the electors of the county or counties to be affected thereby, at a general election, and be adopted by a majority of the legal votes cast in each county at such election, and in case any portion of an organized county is stricken off and added to another, the county to which such portion is added shall assume and be holden for such proportion of the indebtedness of the county so reduced, as the part severed bears to the whole county from which it is severed.

SEC. 4. In counties already organized, where the county seat has not been located by vote of the people, upon a petition signed by a majority of the legal voters of the county, it shall be the duty of the county board to submit the location of the county seat to the electors of said county at the next general election thereafter, and the place receiving a majority of all votes cast at said election shall be the county seat of said county. If, at said election, no place receive a majority of all the votes cast, it shall be the duty of the county board to resubmit the location of the county seat to the electors of said county at the next general election thereafter, and the electors at said election shall vote for one of the two places receiving the highest number of votes at the

preceding election. The place receiving the majority of all the votes cast for county seat at said second election shall be the county seat of said county.

SEC. 5. The legislative assembly shall provide by general law for changing county seats in organized counties, but it shall have no power to remove the county seat of any organized county.

SEC. 6. At the general election in the year A. D. 1890, and every two years thereafter there shall be elected in each organized county a Clerk of the Court, Sheriff, Register of Deeds, Treasurer, State's Attorney, Surveyor, Coroner and Superintendent of Schools, whose terms of office respectively shall be two years, and, except the Clerk of Court, no person shall be eligible for more than four years in succession to any of the above-named offices.

SEC. 7. The Legislative Assembly shall provide by general law for organizing counties into civil townships.

SEC. 8. In each organized civil township there shall be elected at the first general election after the admission of this state into the union for such terms as the Legislative Assembly may by law prescribe, three township supervisors, one of whom shall be designated as chairman, and if the Legislative Assembly shall, by general law, provide that the county board of any county shall consist of less than fifteen members, then upon a petition signed by not less than fifty legal voters of any county, asking that the question of the establishment of a county board to be composed of the chairmen of the several boards of township supervisors be submitted to the electors of the county it shall be the duty of the county board to submit the same at the next general election thereafter, and if at such election a majority of such electors shall vote in favor of such proposition, then the county board of such county shall consist of such chairmen of the several boards of township supervisors and of such others as may by law be provided for any incorporated city or village within such county.

SEC. 9. The legislative assembly shall provide by general law for such other county, township and district officers as may be deemed necessary, and shall prescribe the duties and compensation of all county, township and district officers.

SEC. 10. All county, township and district officers shall be electors in the county, township or district in which they are elected, except as otherwise provided in this Constitution.

Mr. Appleton moved that the report be read by its title only, and that it be printed in the Journal.

Which motion prevailed.

The Committee on Public Debt and Public Works made the following report:

SECTION 1. The State may, to meet casual deficits or failure in the revenue, or in case of extraordinary emergencies, contract debts, but such debts shall never in the aggregate exceed the sum of two hundred thousand dollars, exclusive of what may be the debt of North Dakota at the time of the adoption of this Constitution. Every such debt shall be authorized by law for certain purposes to be definitely mentioned therein, and every such law shall provide for levying an annual tax sufficient to pay the interest semi-annually, and the principal within thirty years from the passage of such law, and shall especially appropriate the proceeds of such tax to the payment of said principal and interest, and such appropriation shall not be repealed nor the tax discontinued until such debt both principal and interest, shall have been fully paid. No debt in excess of the limit named shall be incurred except for the purpose of repelling invasion, suppressing insurrection, defending the state in time of war, or to provide for public defense in case of threatened hostilities.

SEC. 2. The debt of any county, city, town, school district, or any other subdivision, shall never exceed five (5) per centum upon the assessed value of the taxable property therein, except as otherwise specified in this Constitution; *provided*, that any city may, by a two-thirds vote, increase such indebtedness three (3) per cent. beyond said five (5) per cent. limit. In estimating the in-

debtedness which a city, county, or any subdivision thereof may incur, the amount of indebtedness contracted prior to the adoption of this Constitution shall be included.

SEC. 3. Any city, county, town, school district or other subdivision incurring indebtedness shall, at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due, and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrevocable until such debt be paid.

SEC. 4. Neither the state nor any county, township or municipality shall loan or give its credit or make donation to or in aid of any individual, association or corporation, except for necessary support of the poor, nor subscribe to or become the owner of the capital stock of any association or corporation, nor shall the state engage in any work of internal improvement unless authorized by a two-thirds vote of the people.

SEC. 5. No money shall be paid out of the treasury except upon appropriation by law and on warrant drawn by the proper officer, and no bills, claims, accounts or demands against the state, or any county or other subdivision, shall be audited, allowed or paid until a full itemized statement in writing shall be filed with the officer, or officers, whose duty it may be to audit the same.

SEC. 6. No bond or evidence of indebtedness of the state shall be valid unless the same shall have endorsed thereon a certificate signed by the Auditor and Secretary of State showing that the bond or evidence of debt is issued pursuant to law, and falls within the debt limit. No bond or evidence of debt of any county or bond of any township or other subdivision of a county shall be valid unless the same have endorsed thereon a certificate signed by the county auditor, or other officer authorized by law to sign such certificate, stating that said bond or evidence of debt is issued pursuant to law, and is within the debt limit.

E. D. WALLACE,  
Chairman.

Mr. Wallace moved that the report be read by its title only, and be printed in the Journal.

Which motion prevailed.

#### SECOND READING OF ARTICLES.

File No. 136 was read the second time.

File No. 137 was read the second time.

File No. 138 was read the second time.

Mr. Pollock moved that the report of the Committee on School Lands be recalled and recommitted to the Committee on School Lands.

Which motion prevailed.

The President named the following as a committee on the resolution introduced by Mr. Stevens in relation to publishing an address to the people of North Dakota: The President, chairman, Messrs. Stevens, Carland, Spalding, McKenzie, Bartlett of Griggs, Purcell, Rolfe, O'Brien, Turner, Johnson, Carothers and Rowe.

Mr. Purcell moved that the Convention resolve itself into Committee of the Whole for the consideration of the substitute for sections 24 and 25 of the Judiciary Committee's report.

Which motion prevailed, and

The President called Mr. Rowe to the chair.

When the Committee rose the following report was presented:

MR. PRESIDENT:

Your Committee of the Whole have had under consideration File No. 137, the substitute report of the Judiciary Committee on sections 24 and 25 of File No. 121, and recommend that it be amended by adding at the close the following:

"In case the voters of any county decide to increase the jurisdiction of said county courts, then such jurisdiction as thus increased shall remain until otherwise provided by law."

And that as so amended the substitute be adopted.

Your committee have also further considered File No. 121, and recommend that section twenty-six (26) be amended as follows:

Strike out, from line five commencing at the words "the justices," etc., down to the words "they shall have such jurisdiction," etc., in line ten, and insert in lieu thereof the following:

"The justices of the peace herein provided for shall have concurrent jurisdiction with the district court in all civil actions, when the amount in controversy exclusive of costs does not exceed \$200."

Also, after the word "magistrates" in line ten insert the following words: "And in counties where no county court with criminal jurisdiction exists they shall have such jurisdiction to hear and determine cases of misdemeanor as may be provided by law;" also that the section be further amended by adding at the close thereof the following: "The Legislature shall have power to abolish the office of justice of the peace, and confer that jurisdiction upon judges of county courts or elsewhere," and that as so amended the section be adopted.

Also, recommend that section twenty-seven (27) be adopted.

Also, recommend that section twenty eight (28) be amended by striking out the word "probate" in line one and inserting in lieu thereof the word "county" and that as so amended the section be adopted.

Also, recommend that sections twenty-nine (29), thirty (30), thirty-one (31), thirty-two (32), thirty-three (33) and thirty-four (34) be adopted.

Your committee have also had under consideration File No. 133, being the report of the Committee on Preamble and Bill of Rights, and recommend that the following be substituted for the preamble therein contained:

"We, the people of North Dakota, grateful to Almighty God for the blessings of civil and religious liberty, do ordain and establish this Constitution."

Also, recommend that sections one (1), two (2), three (3), four (4), five (5) and six (6) be adopted.

Also, recommend that section seven (7) be amended by striking out the word "and" in the second line, and inserting in lieu thereof the word "in," and that as amended the section be adopted.

Also, recommend the adoption of the following as an additional section of File 133:

Every citizen of this State shall be free to obtain employment, wherever possible, and any person, corporation or agent thereof keeping a black list, interfering or hindering in any way a citizen from obtaining or enjoying employment already obtained, from any other corporation or person, shall be deemed guilty of conspiracy against the welfare of the State, which offense shall be punished as shall be prescribed by law.

Also, recommend that section nine (9), ten (10), eleven (11), twelve (12), thirteen (13), fourteen (14), fifteen (15), sixteen (16), seventeen (17), eighteen (18), nineteen (19), twenty (20), twenty-one (21), twenty-two (22) and twenty-three (23) be approved.

W. H. ROWE,  
Chairman.

Mr. Camp moved that the Committee on Public Institutions be requested to report back to the Convention File No. 79 on Monday.

Which motion prevailed.

Mr. Lauder moved to adopt the report of the Committee of the Whole.

Which motion prevailed.

Mr. Appleton moved to adjourn.

Which motion prevailed.

### EVENING SESSION.

The Convention assembled at 8 o'clock p. m., pursuant to adjournment.

Mr. Stevens moved that the Convention do now resolve itself into Committee of the Whole for the consideration of the business on the table.

Which motion prevailed, and

The President called Mr. Purcell to the chair.

When the Committee rose the following report was presented:

**MR. PRESIDENT:**

Your Committee of the Whole have had under consideration Files 134 and 135 and recommend that section 1 of File 135 be substituted for File 134.

Also, recommend that section 2 of File 134 be adopted.

Also, recommend section three (3), also recommend that section 4, also recommend that section 5, also recommend that section 6 and also recommend that section 7 be adopted, and also recommend that section 8 be adopted.

Also, recommend that section 9 be adopted.

Also, recommend that section 10 be adopted.

Also, recommend that section 11 be passed until Monday next; and also recommend that section 12 be amended by inserting in third line after the word "railroad" the words "sleeping car, telegraph and telephone;" also, in the same line after the word "companies" insert the words "of passengers, intelligence and freight," and when so amended it be adopted.

W. E. PURCELL,

Chairman.

Mr. Bartlett of Griggs, moved that the report of the Committee of the Whole be adopted, and referred to the Committee on Revision.

Which motion prevailed.

Mr. Almen moved to adjourn.

Which motion prevailed, and the Convention adjourned.

J. G. HAMILTON,

Chief Clerk.



MONDAY, August 5, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

Prayer was offered by the Chaplain.

The roll was called, all members absent were excused.

Mr. McHugh moved that the further proceedings under the regular order of business be dispensed with.

Which motion prevailed.

The President introduced U. S. Senator Stewart, Chairman of the Senate Committee on Irrigation and Arid Lands, who addressed the Convention; also U. S. Senator Regan, who addressed the Convention; also Major Powell, Director of the Geological Survey, who addressed the Convention.

Mr. Mathews moved to adjourn.

Which motion prevailed.

#### EVENING SESSION.

The Convention re-assembled at 8 o'clock p. m., pursuant to adjournment.

Mr. Bartlett of Griggs moved that the Convention resolve itself into Committee of the Whole for the purpose of considering the minority and majority reports of the Committee on Corporations Other than Municipal, and also the report of the Committee on County and Township Organization.

Which motion prevailed, and

The President called Mr. Selby to the chair.

When the Committee rose the following report was presented:

**MR. PRESIDENT:**

Your Committee of the Whole have had under consideration Files No. 134 and No. 135, being the majority and minority reports of the Committee on Corporations Other Than Municipal, and recommend that sections thirteen (13), fourteen (14) and eleven (11) of File No. 134 be adopted.

Also, recommend that the following be substituted for section fifteen (15) of File No. 134:

"The term 'corporation,' as used in this article, shall not be understood as embracing municipalities or political divisions of the state, unless otherwise

expressly stated, but it shall be held and construed to include all associations and joint stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships."

Also, recommend that sections sixteen (16) and seventeen (17) of File No. 134 be adopted.

Your Committee have also had under consideration File No. 140, being the report of the Committee on Public Debt and Public Works, and recommend that Section one (1) be adopted.

Also recommend that further consideration of the File be postponed until August 6. The Committee reports progress and asks leave to sit again.

J. F. SELBY,  
Chairman.

Mr. Johnson moved that the report of the Committee of the Whole be adopted and referred to the Committee on Revision and Adjustment.

Which motion prevailed.

Mr. Bartlett of Griggs, moved that when the Convention adjourn it be until 9:30 a. m. to-morrow morning.

Which motion was lost.

The Committee on Miscellaneous Subjects presented the following report, which was read the first time:

**MR. PRESIDENT:**

Your Committee on Miscellaneous Subjects have had under consideration Files Nos. 36, 59, 71, 72, 86 and 109, and report as follows:

We recommend that File No. 36 be amended by striking out the words "General Assembly," where they may appear, and inserting in lieu thereof the words "Legislative Assembly," and that as so amended it be adopted as an article of the Constitution.

We also recommend that File No. 59 be adopted.

We also recommend that File No. 71 be not adopted, as it is covered by File No. 86.

We also recommend that File No. 72 be not adopted.

We also recommend that in File No. 86 sections 2, 3 and 4 be stricken out, and when so amended it be adopted.

We also recommend that File No. 109 be not adopted.

We also recommend that File No. 36 be adopted as follows:

**SECTION 1.** Any amendment or amendments to this Constitution may be proposed in either house of the Legislative Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment shall be entered on the Journal of each house, with the yeas and nays taken thereon, and referred to the Legislature to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice, and if in the Legislative Assembly so next chosen as aforesaid such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the Legislative Assembly to submit such proposed amendment or amendments to the people in such manner and at such time as the Legislative Assembly shall provide; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the Legislative Assembly voting thereon, such amendment or amendments shall become a part of the Constitution of this state.

**SEC. 2.** If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately,

Also, recommend the adoption of File No. 59 as follows:

SECTION 1. The name of the State shall be called and known as the State of "North Dakota."

SEC. 2. The State of North Dakota shall consist of all the territory, included within the following boundaries, to-wit: Commencing at a point in the main channel of the Red River of the North, where the forty-ninth degree of north latitude crosses the same, from thence south up the main channel of the same and along the boundary line of the State of Minnesota to a point where the seventh standard parallel intersects the same; thence west along said seventh standard parallel to a point where it intersects the twenty-seventh meridian of longitude west from Washington; thence north on said meridian to a point where it intersects the forty-ninth degree of north latitude; thence east along said line to place of beginning.

Also, recommend the adoption of File No. 86 as follows.

SECTION 1. The rights of the debtor to enjoy the comforts and necessities of life shall be recognized by wholesome laws, exempting from forced sale a homestead, the value of which shall be limited and defined by law, to all heads of families, and a reasonable amount of personal property; the kind and value shall be fixed by law.

Also the following proposed articles:

THE GREAT SEAL OF THE STATE OF NORTH DAKOTA.

The following described Seal is hereby declared to be and is hereby constituted the Great Seal of the State of North Dakota, to-wit:

A tree in the open field, the trunk of which is surrounded by three bundles of wheat; on the right a plow, anvil and sledge; on the left a bow crossed with three arrows, and an Indian on horseback pursuing a buffalo towards the setting sun; the foliage of the tree arched by a half circle of forty-two stars, surrounded by the motto, "Liberty and Union, one and Inseparable, Now and Forever"; the words, "Great Seal," at the top; the words, "State of North Dakota," at the bottom; "October 1st" on the right and "1889" on the left. The Seal to be two and one-half inches in diameter.

The state of North Dakota hereby accepts the several grants of land granted by the United States to the State of North Dakota by an act of Congress entitled, "An act to provide for the division of Dakota into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments, and to be admitted into the union on an equal footing with the original states; and to make donations of public lands to such States," under the conditions and limitations therein mentioned, reserving the right, however, to apply to Congress for modifications of said conditions and limitations in case of necessity.

W. E. PURCELL,  
Chairman.

Mr. Selby moved to adjourn.

Which motion prevailed, and the Convention adjourned.

J. G. HAMILTON,  
Chief Clerk.

TUESDAY, August 6, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

The President presiding.

Prayer was offered by the Chaplain.

The roll was called, all members absent being excused.

The Journals of August 3d and 5th were read, corrected and approved.

PETITIONS, MEMORIALS, ETC.

The following communications were read:

FIELD SECRETARY'S OFFICE,  
74 E. 90TH STREET. NEW YORK, Aug. 8, 1889. }

*To the Constitutional Convention of North Dakota:*

The American Sabbath Union, of which Col. Elliot F. Shepard is President, with a Vice President and members in each State, respectfully asks that you will settle in advance the question whether the Sunday laws of your future state are to be deemed constitutional by putting into the Constitution itself such a brief Sunday rest article as is hereto appended, and so save the expense that has been caused in twenty-five States to prove in the courts the constitutionality of the State Sunday laws; and also, protect the people against having such laws abolished by the influence of a corrupt lobby, to which such laws are especially exposed. If the principle is in the Constitution, so that only the people can change it, a permanency is secured that is especially desirable in such matters in this age of "Liberty Leagues," with their secret plots against American institutions. The article proposed for insertion, or at least for submission to separate vote, is as follows: "Traffic and all other work for gain on Sunday is forbidden, except works of necessity and mercy, and such private work by those who observe another day as will neither interfere with the general rest nor with public worship. The Legislature shall provide for the enforcement of this provision."

Respectfully submitted,  
WILBUR F. CRAFTS,  
Field Secretary.

ADAMS CENTER, N. Y., July 28, 1889.

*To the Constitutional Convention of North Dakota:*

**MR. PRESIDENT:**

In behalf of more than fifty thousand Christian people of the United States, some of whom reside in your proposed state, and who in obedience to the law of God observe the seventh day of the week commonly called Saturday

as their Sabbath and day of rest and worship, most respectfully petition your honorable body not to incorporate into the Constitution of the new state any provision which will require any people who have observed the seventh day of the week as their Sabbath, to also rest from their labors on Sunday.

And, furthermore, inasmuch as the people of France and all southern Europe have, in accordance with the Word of God, always called and still continue to call the seventh day of the week instead of the first the Sabbath, in order to avoid ambiguity and confusion of terms, we most humbly petition that you do not make any provision in the Constitution wherein Sunday shall be called the Sabbath.

Most Respectfully,  
C. D. POTTER.

Mr. Bennett introduced the following resolution:

*Be it Resolved*, That the Committee on Revision be and they hereby are instructed to insert between the word "city" and the word "and" in the last two lines of section 3 of File 125 as amended, the following words, "or for the purpose of constructing sewers."

Mr. Stevens moved that it be declared the sense of the Convention that the Committee on Revision and Adjustment be requested to incorporate the amendment proposed in the above resolution in their report.

Which motion prevailed.

#### REPORTS OF STANDING COMMITTEES.

The Committee on Public Institutions and Buildings made the following report:

**MR. PRESIDENT:**

Your Committee on Public Institutions and Buildings have had under consideration File No. 79, and a majority of the committee report the same back with the recommendation that it be amended so as to read as follows:

#### PUBLIC INSTITUTIONS.

**SECTION 1.** The following public institutions of the state are permanently located at the places hereinafter named, each to have the lands specifically granted to it by the United States, in the act of Congress, approved February 22, 1888, to be disposed of and used in such manner as the Legislative Assembly may prescribe.

First. The seat of government at the city of Bismarck in the county of Burleigh.

Second. The State University and the School of Mines at the city of Grand Forks, in the county of Grand Forks.

Third. The Agricultural College at the city of Fargo, in the county of Cass.

Fourth. A State Normal School at the city of Valley City, in the county of Barnes; and the Legislative Assembly in apportioning the grant of eighty thousand acres of land for normal schools made in the Act of Congress referred to shall grant to the said Normal School at Valley City as aforementioned fifty thousand (50,000) acres, and said lands are hereby appropriated to said institution for that purpose.

Fifth. The Deaf and Dumb Asylum at the city of Devils Lake, in the county of Ramsey.

Sixth. A State Reform School at the city of Mandan in the county of Morton.

Seventh. A State Normal School at the town of Mayville, in the county of Traill. And the Legislative Assembly in apportioning the grant of lands made by congress, in the act aforesaid for State Normal School, shall assign thirty thousand acres to the institution hereby located at Mayville, and said lands are hereby appropriated for that purpose.

**Eighth.** A State Hospital for the Insane and an Institution for the Feeble-Minded, in connection therewith, at the city of Jamestown, in the county of Stutsman. And the Legislative Assembly shall appropriate twenty thousand acres of the grant of lands made by the act of Congress aforesaid for "Other Educational and Charitable Institutions" to the benefit and for the endowment of said institution.

**SEC. 2.** The following named public institutions are hereby permanently located as hereinafter provided, each to have so much of the remaining grant of one hundred and seventy thousand acres of land made by the United States for "Other Educational and Charitable Institutions," as is allotted below, viz:

**First.** A Soldiers' Home, when located, or such other charitable institution as the Legislative Assembly may determine, at Lisbon, in the county of Ransom with a grant of forty thousand acres of land.

**Second.** A Blind Asylum, or such other institution as the Legislative Assembly may determine, at such place in the county of Pembina as the qualified electors may determine at an election to be held as prescribed by the Legislative Assembly, with a grant of thirty thousand acres.

**Third.** An Industrial School and School for Manual Training, or such other educational institution as the Legislative Assembly may provide, at the town of Ellendale in Dickey county, with a grant of forty thousand acres.

**Fourth.** A School of Forestry, or such other institution as the Legislative Assembly may determine, at such place in one of the counties of McHenry, Ward, Bottineau or Rolette, as the electors of said counties may determine by an election for that purpose, to be held as provided by the Legislative Assembly.

**Fifth.** A Scientific School, or such other educational or charitable institution as the Legislative Assembly may prescribe, at the city of Wahpeton, county of Richland, with a grant of forty thousand acres.

Provided, that no other institution of a character similar to any one of those located by this article shall be established or maintained without a revision of this Constitution.

And that when so amended said File be adopted.

H. F. MILLER,  
Chairman.

#### SECOND READING OF ARTICLES.

File No. 141 was read the second time.

File No. 142 was read the second time.

Mr. Stevens moved that the Convention resolve itself into Committee of the Whole, for the consideration of the business on the secretary's table.

Which motion prevailed and Mr. President called Mr. Spalding to the chair.

When the committee rose the following report was presented:

**MR. PRESIDENT:**

Your Committee of the Whole have further considered File No. 140, being the report of the Committee on Public Debt and Public Works, and also recommend that section two (2) be amended by inserting after the word "county" in the first line the word "township," and that as so amended the section be adopted.

Also, recommend that sections three (3), four (4), five (5) and six (6) be adopted.

Your committee have also had under consideration File No. 139, being the report of the committee on county and township organization, and recommend that section one (1), two (2) be adopted.

Also, recommend that section three (3) be amended by striking out the word "such" in line seven, and inserting in lieu thereof the words "an equitable," and that as so amended the section be adopted.

Also recommend that section four (4) be stricken out.

Also recommend that section five (5) be adopted.

Also recommend that section six (6) be stricken out.

Also recommend that sections seven (7) and eight (8) be stricken out and that the following be substituted in lieu thereof:

SEC. 7. The Legislative Assembly shall provide by general law for township organizations, under which any county may organize whenever a majority of the legal voters of such county, voting at any election called for that purpose, shall so determine, and townships when organized shall be bounded as near as may be by congressional township lines and natural boundaries; and upon a petition signed by not less than one-fourth of the legal voters, as shown by the preceding election, of any county organized into civil townships, asking that the question of the establishment of a county board, to be composed of the chairmen of the several boards of township supervisors be submitted to the electors of the county, it shall be the duty of the county board to submit the same at the next election thereafter, and if at such election a majority of such electors shall vote in favor of such proposition, then the county board of such county shall consist of such chairmen of the several boards of township supervisors and of such others as may by law be provided for any incorporated city or village within such county.

And that as so amended the section be adopted.

Also recommend that section nine (9) be amended by striking out the word "other" in the second line thereof; also by adding at the end thereof the following: "*Provided*, That all county officers shall receive a fixed salary. For the purpose of providing for and regulating the compensation of county officers, the General Assembly shall, by law, classify the several counties of the state according to population, and shall grade and fix the compensation of the officers within the respective classes according to the population thereof. Such law shall establish scales of fees to be charged and collected by such of the county officers as may be designated therein, for services to be performed by them respectively. All fees, perquisites and emolument, shall be paid into the county treasury," and that as amended the section be adopted.

Also, recommend that section ten (10) be adopted.

Also, recommend that the following be adopted as an additional section and become section eleven (11):

"The sheriff and treasurer of any county shall not hold their respective offices for more than four years in succession."

B. F. SPALDING,  
Chairman.

Mr. Wallace moved that the report of the Committee of the Whole be adopted, and that it be referred to the Committee on Revision and Adjustment.

Which motion prevailed.

Mr. Lowell moved to adjourn.

Which motion prevailed.

#### EVENING SESSION.

The Convention assembled at 8 o'clock p. m. pursuant to adjournment.

Mr. Rolfe moved that the Convention do now resolve itself into a Committee of the Whole for the purpose of considering File No. 132, and such other business as may be on the Clerk's desk.

Mr. Scott moved to amend by considering File 143.

Ayes and nays demanded on the amendment.

The roll being called there were ayes 29, nays 39, viz:

Those who voted in the affirmative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Bartlett of Dickey,	Griggs,	Paulson,
Blewett,	Harris,	Ray,
Brown,	Holmes,	Sandager,
Carland,	Hoyt,	Scott,
Chaffee,	Leach,	Spalding,
Clark,	Lowell,	Stevens,
Elliott,	Meacham,	Wellwood,
Gayton,	McHugh,	Whipple.
Glick,	Miller,	Williams.
Gray,	Moer,	

Those who voted in the negative were—

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Allin,	Flemington,	Powers,
Almen,	Haugen,	Powles,
Appleton,	Johnson,	Purcell,
Bartlett of Griggs,	Lauder,	Pollock,
Bell,	Linwell,	Richardson,
Bennett,	Lohnes,	Rolfe,
Best,	Marrinan,	Rowe,
Camp,	Mathews,	Selby,
Carothers,	McBride,	Shuman,
Clapp,	Noble,	Slotten,
Colton,	Nomland,	Turner,
Douglas,	O'Brien,	Wallace,
Fay,	Peterson,	Mr. President.

Absent and not voting—

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Hegge,	Parsons of Morton,	Robertson,
McKenzie,	Parsons of Rolette,	

And so the amendment was lost.

Mr. Stevens moved to amend by considering such business as may come before the Convention.

Ayes and nays demanded on the amendment.

The roll being called there were ayes 33, nays 37, viz:

Those who voted in the affirmative were:

<b>Messrs</b>	<b>Messrs—</b>	<b>Messrs—</b>
Bartlett of Dickey,	Gray,	Parsons of Morton,
Blewett,	Griggs,	Paulson,
Brown,	Harris,	Ray,
Camp,	Holmes,	Sandager,
Carland,	Hoyt,	Scott,
Chaffee,	Leach,	Spalding,
Clark,	Lowell,	Stevens,
Elliott,	Meacham,	Wellwood,
Flemington,	McHugh,	Whipple,
Gayton,	Miller,	Williams,
Glick,	Moer,	Mr. President.

Those who voted in the negative were:

<b>Messrs —</b>	<b>Messrs—</b>	<b>Messrs—</b>
Allin,	Johnson,	Powles,
Almen,	Lauder,	Purcell,
Appleton,	Linwell,	Pollock,
Bartlett of Griggs,	Lohnes,	Richardson,



Bell,	Marrinan,	Robertson,
Bennett,	Mathews,	Rolfe,
Best,	McBride,	Ro we,
Carothers,	Noble,	Selby,
Clapp,	Nomland,	Shuman,
Colton,	O'Brien,	Slotten,
Douglas,	Parsons of Rolette,	Turner,
Fay,	Peterson,	Wallace.
Haugen,	Powers,	

Absent and not voting:

Messrs—		
Bean,	Mr. Hegge,	Mr. McKenzie
Budge,		

And so the amendment was lost.

Mr. Bartlett of Griggs, moved to amend by striking out the words "and such other business as may be on the Clerk's desk."

Which amendment prevailed, and the original motion as amended being put, prevailed, and the President called Mr. Rolfe to the chair.

When the committee rose the following report was presented:

MR. PRESIDENT:

Your Committee of the Whole have had under consideration File No. 132, being the report of the Committee on Revenue and Taxation, and recommend that sections 1, 2 and 3 be adopted, and that section 4 be amended by striking out the words "land and the improvements thereon shall be separately assessed," and as so amended it be adopted.

Also recommend that section 5 be adopted and that section 6 be amended by striking out the words "city and county" in the second line, and as so amended it be adopted, and also recommend that section 7 be amended by striking out the word "three" in the second line and "one dollar and fifty cents" inserted in lieu thereof and as so amended it be adopted, and also recommend that section 8 be stricken out and that section 9 be adopted.

E. S. ROLFE,  
Chairman.

Mr. Lauder moved that the report of the Committee of the Whole be adopted and referred to the Committee on Revision.

Which motion prevailed.

Mr. Lauder moved to adjourn.

Which motion prevailed and the Convention adjourned.

J. G. HAMILTON,  
Chief Clerk.

WEDNESDAY, Aug. 7, 1889.

The Convention assembled at 2 o'clock p. m. pursuant to adjournment.

The President presiding.

Prayer was offered by the Chaplain.

The roll was called, all members absent being excused.

The Journal was read, corrected and approved.

REPORTS OF STANDING COMMITTEE.

The committee on apportionment made the following report:

MR. PRESIDENT:

Your committee on Apportionment and Representation have had under consideration Files Nos. 20, 33, 66 and 108, and respectfully recommend that they do not pass; and further report the annexed apportionment and representation and recommend that the same be adopted by the Convention.

AEDREW SLOTTEN,  
Chairman.

Until otherwise provided by law the senatorial and representative districts shall be formed, and the senators and representatives shall be apportioned as follows:

First district shall consist of the townships of Walhalla, St. Joseph, Neche, Pembina, Bathgate, Carlisle, Joliet, Midland, Lincoln and Drayton, and be entitled to one senator and two representatives.

Second district shall consist of the townships of St. Thomas, Hamilton, Cavalier, Akra, Beaulieu, Thingvalla, Gardar, Park, Crystal, Flora and Lodema, and be entitled to one senator and two representatives. All in the county of Pembina.

Third district shall consist of the townships of Perth, Latona, Adams, Silvesta, Cleveland, Morton, Vesta, Tiber, Medford, Vernon, Golden, Lamp-ton, Eden, Rushford, Kensington, Dundee, Ops, Prairie Centre, Fertile and Glenwood, and be entitled to one senator and two representatives.

Fourth district shall consist of the townships of Forest River, Walsh, Center, Grafton, Farmington, Ardoch, Harrison, Oakwood, Martin, Walshville, Pulaski, Ackton and St. Andrews, and be entitled to one senator and three representatives. All in Walsh county.

Fifth district shall consist of the townships of Gilby, Johnstown, Strabane, Wheatfield, Hegton, Arvilla, Avon, Northwood, Lind, Grace, Larimore and the City of Larimore, Elm Grove, Agnes, Inkster, Elkmonnt, Oakwood, Niagara, Moraine, Logan and Loretta, and be entitled to one senator and two representatives.

Sixth district shall consist of the Third, Fourth, Fifth and Sixth wards of the city of Grand Forks, as now constituted, and the townships of Falconer, Harvey, Turtle River, Ferry, Rye, Blooming, Meckinock, Lakeville and Levant, and be entitled to one senator and two representatives.

Seventh district shall consist of the First and Second wards of the city of Grand Forks, as now constituted, and the townships of Grand Forks, Brenna, Oakville, Chester, Pleasant View, Fairfield, Allendale, Walle, Benton, Americus, Michigan, Union and Washington, and be entitled to one senator and two representatives. All in the county of Grand Forks.

Eighth district shall consist of the county of Traill, and be entitled to one senator and four representatives.

Ninth district shall consist of the township of Fargo and the city of Fargo, and be entitled to one senator and two representatives.

Tenth district shall consist of the townships of Noble, Wisner, Harwood, Reed, Barnes, Stanley, Pleasant, Kenyon, Gardner, Berlin, Raymond, Mapleton, Warren, Norman, Elm River, Harmony, Durbin, Addison, Davenport, Casselton, and the city of Casselton, and be entitled to one senator and three representatives.

Eleventh district shall consist of the townships of Webster, Rush River, Hunter, Arthur, Amenia, Everest, Maple River, Leonard, Dows, Erie, Empire, Wheatland, Gill, Walburg, Watson, Page, Ayr, Buffalo, Howes, Eldred, Highland, Rochester, Lake, Cornell, Tower, Hill, Clifton and Pontiac, and be entitled to one senator and three representatives.

Twelfth district shall consist of the county of Richland and be entitled to one senator and three representatives.

Thirteenth district shall consist of the county of Sargent and be entitled to one senator and two representatives.

Fourteenth district shall consist of the county of Ransom and be entitled to one senator and two representatives.

Fifteenth district shall consist of the county of Barnes and be entitled to one senator and two representatives.

Sixteenth district shall consist of the counties of Steele and Griggs and be entitled to one senator and two representatives.

Seventeenth district shall consist of the county of Nelson and be entitled to one senator and one representative.

Eighteenth district shall consist of the county of Cavalier and be entitled to one senator and two representatives.

Nineteenth district shall consist of the counties of Towner and Rolette and be entitled to one senator and one representative.

Twentieth district shall consist of the counties of Benson and Pierce and be entitled to one senator and one representative.

Twenty-first district shall consist of the county of Ramsey and be entitled to one senator and two representatives.

Twenty-second district shall consist of the counties of Eddy, Foster and Wells and be entitled to one senator and two representatives.

Twenty-third district shall consist of the county of Stutsman and be entitled to one senator and two representatives.

Twenty-fourth district shall consist of the county of LaMoure and be entitled to one senator and one representative.

Twenty-fifth district shall consist of the county of Dickey and be entitled to one senator and two representatives.

Twenty-sixth district shall consist of the counties of Emmons and McIntosh, Logan and Kidder, and be entitled to one senator and two representatives.

Twenty-seventh district shall consist of the county of Burleigh and be entitled to one senator and two representatives.

Twenty-eighth district shall consist of the counties of Bottineau and McHenry and be entitled to one senator and one representative.

Twenty-ninth district shall consist of the counties of Ward, McLean, and all the unorganized counties lying north of the Missouri river, and be entitled to one senator and one representative.

Thirtieth district shall consist of the counties of Morton and Oliver, and be entitled to one senator and two representatives.

Thirty-first district shall consist of the counties of Mercer, Stark and Billings and all the unorganized counties lying south of the Missouri river, and be entitled to one senator and one representative.

The members of the Committee on Public Institutions and Buildings submitted the following minority report:

SECTION 1. The Legislative Assembly shall have no power to change or to locate the seat of government of the state, but shall at its first session subsequent to the admission of the state, provide by law for submitting the ques-

tion of the permanent location of the seat of government to the qualified electors of the state at the general election then next ensuing, *provided*, that until the seat of government shall have been permanently located as herein *provided*, the temporary location thereof shall be at the city of Bismarck.

SEC. 2. When the seat of government shall have been located as herein provided, the location thereof shall not thereafter be changed except by a vote of two-thirds of all the qualified electors of the state voting on that question at a general election at which the question of location of the seat of government shall have been submitted by the Legislative Assembly.

SEC. 3. The Legislative Assembly shall make no appropriation or expenditure for capitol buildings or grounds until the seat of government shall have been permanently located as herein provided. All other public institutions shall be located by the Legislative Assembly at a regular session thereof, *provided*, that no more than one public institution other than those already established and maintained by law shall be located at any one session of said Legislative Assembly, except as aforesaid.

M. K. MARRINAN,  
RICHARD BENNETT,  
JOHN POWERS.

#### SECOND READING OF ARTICLES.

File No. 143 was read the second time.

Mr. Williams moved that the Convention now proceed to the consideration of the minority and majority reports of the Committee on Public Institutions and Buildings.

Which motion prevailed.

Mr. Miller moved that the Convention adopt as a whole the majority report of the Committee on Public Institutions and Buildings, known as File No. 143.

Mr. Bartlett of Griggs, offered the following as an amendment to the article to be known as section one:

The following article shall be submitted to a vote as a separate article as provided by the schedule.

Ayes and nays demanded on the amendment.

The roll being called there were ayes 31, nays 43, viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Allin,	Douglas,	Peterson,
Almen,	Haugen,	Powers,
Appleton,	Johnson,	Rurcell,
Bartlett of Griggs,	Linwell,	Pollock,
Bean,	Marrinan,	Richardson,
Bell,	Mathews,	Robertson,
Bennett,	McBride,	Selby,
Best,	Noble,	Slotten,
Budge,	Nomland,	Turner,
Carothers,	O'Brien,	Wallace.
Colton,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Bartlett of Dickey,	Harris,	Paulson,
Blewett,	Hegge,	Powles,
Brown,	Holmes,	Ray,
Camp,	Hoyt,	Rolfe,

Carland,	Lauder,	Rowe,
Chaffee,	Leach,	Sandager,
Clapp,	Lohnes,	Scott,
Clark,	Lowell,	Shuman,
Elliott,	Meacham,	Spalding,
Fay,	McHugh,	Stevens,
Flemington,	McKenzie,	Wellwood,
Gayton,	Miller,	Whipple,
Glick,	Moer,	Williams,
Gray,	Parsons of Morton,	Mr. President.
Griggs,		

Absent and not voting, Mr. Parsons of Rolette.

And so the amendment was lost.

Mr. Bean moved to amend section one (1) by striking out in lines four and five the words "in such manner as the Legislative Assembly may prescribe," and substitute therefor the words "as provided in this Constitution."

Which amendment was lost.

Mr. Johnson moved to amend section 1 by striking out the words "Bismarck" in the sixth line and "Burleigh" in the seventh line, and inserting in lieu thereof the words "Jamestown" and "Stutsman."

Ayes and nays demanded on the amendment.

The roll being called there were ayes 19, nays 55, viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Allin,	Budge,	Noble,
Almen,	Carothers,	Peterson,
Appleton,	Haugen,	Richardson,
Bartlett of Griggs,	Johnson,	Robertson,
Bell,	Marrinan,	Turner,
Bennett,	Mathews,	Wallace,
Best,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Bartlett of Dickey,	Hegge,	Powers,
Bean,	Holmes,	Powles,
Blewett,	Hoyt,	Purcell,
Brown,	Lauder,	Pollock,
Camp,	Leach,	Ray,
Carland,	Linwell,	Rolfe,
Chaffee,	Lohnes,	Rowe,
Clapp,	Lowell,	Sandager,
Clark,	Meacham,	Scott,
Colton,	McBride,	Selby,
Douglas,	McHugh,	Shuman,
Elliott,	McKenzie,	Slotten,
Fay,	Miller,	Spalding,
Flemington,	Moer,	Stevens,
Gayton,	Nomland,	Wellwood,
Glick,	O'Brien,	Whipple,
Gray,	Parsons of Morton,	Williams,
Griggs,	Paulson,	Mr. President.
Harris,		

Absent and not voting, Mr. Parsons of Rolette.

And so the amendment was lost.

Mr. Bean moved the previous question.

Which motion prevailed, and

The main question being put, the ayes and nays were demanded.

The roll being called there were ayes 44, nays 30, viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Bartlett of Dickey,	Griggs,	Paulson,
Bean,	Harris,	Powles,
Blewett,	Hegge,	Ray,
Brown,	Holmes,	Rolfe,
Camp,	Hoyt,	Rowe,
Carland,	Lauder,	Sandager,
Chaffee,	Leach,	Scott,
Clapp,	Lohnes,	Shuman,
Clark,	Lowell,	Spalding,
Elliott,	Meacham,	Stevens,
Fay,	McHugh,	Wellwood,
Flemington,	McKenzie,	Whipple,
Gayton,	Miller,	Williams.
Glick,	Moer,	Mr. President.
Gray,	Parsons of Morton,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Allin,	Douglas,	Peterson,
Almen,	Haugen,	Powers,
Appleton,	Johnson,	Purcell,
Bartlett of Griggs,	Linwell,	Pollock,
Bell,	Marrinan,	Richardson,
Bennett,	Mathews,	Robertson,
Best,	McBride,	Selby,
Budge,	Noble,	Slotten,
Carothers,	Nomland,	Turner,
Colton,	O'Brien,	Wallace,

Absent and not voting, Mr. Parsons of Rolette.

Messrs. Camp, Parsons of Morton, Rolfe, Turner, Williams and Mr. President explaining their votes.

And so the motion prevailed.

Mr. McHugh moved that the vote by which File No. 143 was adopted be reconsidered, and that the vote to reconsider be laid on the table.

Which motion prevailed.

Mr. Spalding moved to adjourn, which motion prevailed, and the convention adjourned.

### EVENING SESSION.

The Convention assembled at 8 o'clock p. m., pursuant to adjournment.

Mr. Purcell moved that the Convention resolve itself into

Committee of the Whole for the consideration of the report of the Committee on Miscellaneous Subjects and such other business as may be on the Clerk's desk.

Which motion prevailed, and

Mr. President called Mr. Camp to the chair.

Mr. Flemington moved to adjourn.

Which motion prevailed and the Convention adjourned.

J. G. HAMILTON,  
Chief Clerk.

THURSDAY, August 8, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

The President presiding.

Prayer was offered by the Chaplain.

The roll was called. All members absent were excused.

The Journal was read, corrected and approved.

The report of the Committee of the Whole for August 7th, was read as follows:

When the committee rose the following report was presented:

MR. PRESIDENT:

Your Committee of the Whole have had under consideration the report of the Committee on Miscellaneous Subjects and recommend that File No. 36 be amended by striking out the words "General Assembly" wherever they occur in the file and inserting in lieu thereof the words "Legislative Assembly;" also strike out the word "Legislature" in the sixth line of section one (1) and insert in lieu thereof the words "Legislative Assembly;" also recommend that the further consideration of the following proposed substitute for section one be indefinitely postponed:

It shall be the duty of the Governor every seven years after the adoption of the Constitution to submit to the qualified voters of the state the following question: "Shall a Convention be called to revise the Constitution?"

If it shall appear that the sense of the people has been taken, and that in the opinion of a majority of the qualified voters in the state, voting at said election, there is a necessity for a revision of the Constitution, it shall be the duty of the Governor to call a Convention for that purpose.

The delegates to be chosen in the same manner and proportioned as the members of the house of representatives in the Legislative Assembly; *providing* that no amendment shall be made to this Constitution before the same shall be submitted to the people.

Also recommend that the further consideration of the following proposed amendment to section one (1) be indefinitely postponed: In lines three and ten strike out the words "a majority," and insert the words "three-fifths."

Also recommend that section one (1) be adopted as amended.

Also recommend that section two (2) be adopted.

The Committee have also considered File No. 59 and recommend that Section one (1) be amended so as to read: "The name of this state shall be North Dakota," and that as so amended the Section be adopted.

Also recommend that Section two (2) be adopted.

The Committee have also considered File No. 86, and the recommendations of the Committee on Miscellaneous Subjects thereon, and recommend

that Section one (1) be amended by adding at the close thereof the following:  
 "This Section shall not be construed to prevent liens against the homestead for labor done and materials furnished in the improvement thereof, in such manner as shall be prescribed by law."

And that as so amended the Section be adopted.

Also, recommend that the report of the committee as to sections two (2), three (3) and four (4) be adopted.

The committee have also considered File No. 141 and recommend that it be adopted.

The committee have also considered File No. 142 and recommend that it be amended in the eighth line by making the words "now and forever" precede the words "one and inseparable." And that as so amended it be adopted.

The committee have also considered File No. 92 and recommend it be amended by striking out the word "Legislature" in the first line and substituting therefor the words "Legislative Assembly;" also that the following be added after the word "ability" in line eight, the words "so help me God."

The committee have also considered File No. 72 and recommend that section one (1) be amended by striking out the word "fifteen" in line one and inserting therefor the word "twelve" and that as so amended it be adopted.

The committee reports progress and asks leave to sit again.

EDGAR W. CAMP,  
 Chairman.

Mr. Wallace moved that the report of the Committee of the Whole be adopted and that it be referred to the Committee on Revision and Adjustment.

Which motion prevailed.

#### REPORTS OF STANDING COMMITTEES.

##### MR. PRESIDENT:

Your Committee on Accounts and Expenses respectfully report that owing to the absence of the Secretary of the Territory, it will not be possible to report to the Convention an article covering the expenses to be paid by the state of North Dakota. We understand that a proportion of the per diem to be paid to the members and officers of the convention must be assumed by the state, but how much is an unknown quantity until the Secretary of the Territory reports to the committee.

O. G. MEACHAM,  
 Chairman.

Your Committee on School and Other Public Lands to whom File No. 130 was referred for reconsideration report as follows:

In section 1, line 12, strike out the words "which may in any manner occur." In sec. 4, line 2, after the word "state" insert the words "State Auditor." In line 4, strike out the word "commissioners."

In sec. 5, line 4, strike out the word "commissioners."

In Section seven, line 12, we recommend that the words "that shall in any manner occur" be stricken out and the word "therefrom" be changed to "thereof."

Also recommend that the following amendment be added after the last word of Section (10), viz: "Or in first mortgages, on farms, lands, in this state, not exceeding in amount one-third of the actual value of any subdivision on which the same may be loaned, such value to be determined by the board of appraisal."

Also recommend that in section 13, line 4, all after the word "them" be stricken out and the following be substituted therefor: "No officer shall deposit any of said moneys or funds in any bank in his own name or otherwise than in the name of the state of North Dakota."

H. M. CLARK,  
 Chairman.



## SECOND READING OF ARTICLES.

File No. 145 was read the second time.

Mr. Parsons, of Morton, moved that File No. 144, being the report of the Committee on Apportionment, be adopted,

Mr. Wallace moved as an amendment that the name of the counties be mentioned in the report and that where the same is not mentioned it be inserted

Which amendment prevailed.

Mr. Johnson moved to amend File No 144 that each district shall commence as follows: "The . . . district shall consist of."

Which amendment was adopted.

Mr. Mathews moved as a substitute, that the Convention proceed to consider the file section by section.

Which motion was lost.

The original motion of Mr. Parson of Morton was adopted.

Mr. Camp moved that the Article recommended by the Committee on Equitable Division of the Territorial Property and Indebtedness to become a part of the schedule, and printed on page six of this report, be read the second time.

Which motion prevailed and the Article was read the second time.

Mr. Camp moved that the Convention resolve itself into Committee of the Whole for the consideration of any business upon the Clerk's table.

Which motion prevailed,

And the President called Mr. Harris to the Chair.

Mr. Camp moved to adjourn,

Which motion prevailed.

## EVENING SESSION.

The Convention assembled at 8 o'clock p. m. pursuant to adjournment.

Mr. Lauder moved that the report of the Committee of the Whole be adopted.

Mr. Wallace moved to amend by adopting the report, except so far as refers to section 13 of File 130.

Which amendment was adopted and the original motion as amended prevailed.

The report of the Committee of the Whole of August 8th, afternoon session, was read as follows:

**MR. PRESIDENT:**

Your Committee of the Whole have had under consideration File No. 145, being the article reported by the Committee on Equitable Division of Territorial Property and Indebtedness, and recommend that the article be adopted and referred to the Committee on Revision and Adjustment.

Your committee have also had under consideration that part of the agreement of the same committee which relates to the division of the archives, records and books, and recommend that the same be adopted.

Also, recommend the adoption of the following recommendations of the Joint Committee:

Should the counties containing land which form a part of the grant of lands made by congress to the Northern Pacific Railroad company be compelled by law to refund moneys paid for such lands, or any of them by purchasers thereof, at tax sales thereof based upon taxes illegally levied upon said lands, then and in that case the state of North Dakota shall appropriate the sum of \$25,000, or so much thereof as may be necessary to reimburse said counties pro rata, for the amount so received from said illegal tax sales and paid by said counties into the treasury of Dakota Territory.

We further recommend that the shorthand notes of the proceedings of the said Joint Commission be transcribed and printed with the debates of the Convention, inasmuch as, so far as the committee is informed, said Joint Commission is the first body of the kind ever convened.

Your committee have also had under consideration Files No. 130 and 138, being the reports of the Committee on School and Other Public Lands, and recommend that the words "which may in any manner occur" be stricken out of line twelve of section one (1) of File No. 130 and that as so amended the section be adopted.

Also recommend that sections two (2) and three (3) of File No. 130 be adopted.

Also recommend that section four (4) be amended by inserting in line two the words "and state auditor"; also in line four strike out the word "commissioners"; and that as so amended the section be adopted.

Also recommend that Section five (5) be amended by striking out in line four the word "commissioners." Also strike out the period (.) and word "they" in line six and insert therefor the word "and;" and strike out the words "take care" and the word "to" in line seven; also strike out the letter "s" from the word "boards" in line two; and that as so amended the section be adopted.

Also recommend that Section six (6) be amended by adding at the end of the section, as it appears in the printed bill, the following:

*Provided, That all lands contracted to be sold by the state shall be subject to taxation from date of such contract. In case the taxes assessed against any of said lands for any year, remain unpaid until the first Monday in October of the following year, there and thereupon the contract of sale for such land shall become null and void.*

Also strike out the words "hundred and sixty acres" and insert in lieu thereof the words "quarter section;" and that as so amended the section be adopted.

Also recommend that section seven be amended as follows; Strike out in lines twelve and thirteen the words "that shall in any manner occur;" also in line twelve strike out the word "therefrom," and insert therefor the word "thereof" and that as so amended the section be adopted.

Also recommend that section eight (8) of File No. 130 be adopted.

Also recommend that section nine (9) of File No. 130 be stricken out and section nine of File No. 138 be substituted therefor.

Also recommend that Section ten (10) of File No. 130, be amended by adding thereto the following: "Or in first mortgages on farm lands in the state not exceeding in amount one-third of the actual value of any subdivision on which the same may be loaned, such value to be determined by the Board of Appraisal and School Lands," and that as so amended the section be approved.

Also recommend that Sections eleven (11) and twelve (12) be approved.

Also recommend that Section thirteen (13) be amended by striking out all after the word "them" in line four and substituting therefor the following: "No officer shall deposit any of said moneys or funds in any bank in his own name or otherwise than in the name of the State of North Dakota," and that as so amended the section be adopted.

HARVEY HARRIS,  
Chairman.

Mr. Parsons of Morton, presented the following resolution and moved its adoption:

*Resolved, That the Committee on Revision and Adjustment be instructed to report the following as section 18 of the report of the Committee on Corpo-*

rations Other than Municipal, and that the same become a part of the article on corporation.

SECTION 1. Whenever a difference shall arise between any corporation other than municipal and its employes or an industrial society incorporated under the laws of the state, any of whose members are employes of such corporation, if the disagreement cannot be adjusted by conference, it shall be submitted to arbitration under such rules as may be prescribed by law.

Mr. Bartlett of Griggs moved that the resolution be laid on the table.

Ayes any nays were demanded:

The roll being called there were ayes 39, nays 31.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Allin,	Clapp,	McBride,
Almen,	Colton,	Noble,
Appleton,	Douglas,	Nomland,
Bartlett, of Dickey,	Elliott,	O'Brien,
Bartlett of Griggs,	Gayton,	Paulson,
Bean,	Hegge,	Peterson,
Bell,	Holmes,	Powers,
Bennett,	Johnson,	Purcell,
Blewett,	Leach,	Pollock,
Brown,	Linwell,	Robertson,
Carland,	Marrinan,	Scott,
Carothers,	Mathews,	Selby,
Chaffee,	Meacham,	Whipple.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Camp,	McHugh,	Sandager,
Clark,	McKenzie,	Shuman,
Fay,	Miller,	Slotten,
Flemington,	Moer,	Spalding,
Glick,	Parsons of Morton,	Stevens,
Harris,	Parsons of Rolette,	Turner,
Haugen,	Powles,	Wallace,
Hoyt,	Ray,	Wellwood,
Lauder,	Rolfe,	Williams,
Lohnes,	Rowe,	Mr. President.
Lowell,		

Absent and not voting—

Messrs—	Messrs—	Mr. Richardson.
Best,	Gray,	
Budge,	Griggs,	

And so the motion to lay on the table prevailed.

Mr. Lauder introduced the following resolution and moved its adoption:

*Resolved,* That the Committee on Revision and Adjustment be requested to report the following as a section of the article on incorporations other than municipal: Laws shall be passed by the Legislative Assembly providing for the amicable settlement of difference between employers and their employes by arbitration.

Mr. Stevens moved that the resolution be laid on the table.

Ayes and nays demanded.

The roll being called there were ayes 39; nays 30.

Those who voted in the affirmative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Allin,	Flemington,	Noble,
Almen,	Gayton,	Nomland,
Appleton,	Griggs,	O'Brien,
Bartlett, of Griggs,	Hegge,	Parsons, of Rolette.
Bean,	Holmes,	Paulson,
Bennett,	Johnson,	Peterson,
Brown,	Leach,	Purcell,
Camp,	Linwell,	Pollock,
Carland,	Marrinan,	Sandager,
Carothers,	Mathews,	Scott,
Chaffee,	Meacham,	Selby,
Colton,	McBride,	Stevens,
Elliott,	McHugh,	Whipple.

Those who voted in the negative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Bartlett, of Dickey,	Lowell,	Rowe,
Blewett,	McKenzie,	Shuman,
Clapp,	Miller,	Slotten,
Clark,	Moer,	Spalding,
Glick,	Parsons, of Morton,	Turner,
Gray,	Powers,	Wallace,
Harris,	Powles,	Wellwood,
Haugen,	Ray,	Williams,
Hoyt,	Robertson,	Mr. President.
Lauder,	Rolfe,	

Those absent and not voting were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Bell,	Budge,	Lohnes,
Best,	Douglass,	Richardson.

And so the resolution was laid on the table.

Mr. Parsons of Morton, introduced the following resolution:

*Resolved*, That the following be reported to the Revision and Adjustment Committee with the request that the same be reported as adopted as an article or section of the Constitution.

All flowing streams and water ways shall forever remain the property of the state.

Mr. Camp moved that the rules be suspended and the resolution be read the first and second times.

Which motion prevailed.

Mr. McHugh moved that when the Convention adjourn it take a recess until Wednesday, August 14th.

Mr. Flemington moved to amend by substituting Tuesday, August 13th for Wednesday, August 14th, which amendment Mr. McHugh accepted.

Mr. Lauder moved to amend by substituting August 24th for Tuesday, August 13th.

Mr. Wallace moved as a substitute that when the Convention adjourn it take a recess until Wednesday, August 14th, at 2 o'clock p. m.

Which amendment was lost.

The amendment of Mr. Lauder was lost, and the original motion prevailed.

Mr. Camp moved that the resolution relating to the water ways be referred to the Committee on Revision and Adjustment.

Which motion prevailed.

Mr. McHugh moved to adjourn.

Which motion was lost.

Mr. Camp moved that the chairman of the Committee on Schedule be required to hand in his report to the chairman of the Committee on Revision and Adjustment to-morrow at 9 o'clock a. m.

Which motion prevailed.

Mr. Moer moved the previous question.

Which motion prevailed.

And the main question being put prevailed.

Mr. Selby moved to adjourn.

Which motion was lost.

Mr. Appleton presented the following resolution, and moved its adoption:

*Resolved*, That the Committee on Revision and Adjustment be requested to report the following as an article of the Constitution:

The State Treasurer shall invest all funds that may come into his hands as such treasurer belonging to the State of North Dakota in Government bonds, except the sum of fifty thousand dollars. All interest collected from said bonds to go to the state, and shall sell said bonds whenever the funds shall be needed.

Mr. Williams moved to adjourn.

Which motion was lost.

Mr. Wallace moved that Section 13 of File 130 as printed be adopted and referred to the Committee on Revision and Adjustment

Which motion prevailed.

Mr. McHugh moved that the further consideration of the resolution be indefinitely postponed.

Mr. Williams moved to adjourn.

Which motion prevailed and the Convention adjourned.

J. G. HAMILTON,  
Chief Clerk.

TUESDAY, AUG. 13, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

The President presiding.

Prayer was offered by the Chaplain.

The roll was called, all members absent were excused.

The Journal was read corrected and approved.

Mr. Stevens moved that the following named persons, citizens of Ransom county be extended the privilege of the floor:

Messrs. W. D. Brown, E. S. Wisner, A. D. Lucas, C. W. Buttz, Col. C. E. Tuller, J. Brohof, J. S. Cole, C. B. Wisner, P. H. Rourke, J. M. Allen, H. B. Hendricks, G. W. Fowler, R. S. Sanborn, N. B. Haumen, C. W. Sprague, Dr. C. W. McBride, Dr. J. H. Johnson, J. S. Murphy, Frank Grange, A. G. Evens, Ed. Pierce Scott, N. Sanford, S. Robinson, E. Gilbertson, E. Noyes, E. C. Brunsn.

Mr. Moer moved as an amendment that the privileges of the floor be extended to all citizens of North Dakota.

Which motion prevailed.

PETITIONS, COMMUNICATIONS, ETC.

The following telegram was read:

BOISE CITY, Idaho, Aug. 8, 1889.

*To the President of the Constitutional Convention:*

The Idaho Constitutional Convention before adjournment orders its congratulations to be sent to the Constitutional Convention of Washington, Montana and North and South Dakota, at the progress the people of the entire Northwest are making toward early statehood. Idaho is now prepared to present itself before congress simultaneously with its sister territories and ask for admission into the union of states, being fully able to support a state government and possessed of unlimited natural resources, we ask for your friendly assistance and co-operation in obtaining a speedy release from territorial dependence.

GEORGE L. SHOUP, Governor.

W. H. CLAGETT, President.

Mr. Miller moved that the President be instructed to answer the message.

Which motion prevailed.

GRAND FORKS, August 8.

*To the President of the Constitutional Convention:*

Kindly inform the Constitutional Convention that the power to locate the public institutions for the new State of North Dakota, has never been dele-

gated and still remains with the people at large. Should the Constitutional Convention farm them out and submit the "job" with, and as a part of the Constitution, the people cannot look upon it other than as an application of gag law, to take from them rights and privileges under the penals of remaining in territorial bondage. We believe that the territory will prefer that the birth of the new state be indefinitely postponed, rather that it be born under and by virtue of a Constitution reeking with jobbery. Grand Forks county has forty-five hundred votes, fifty public speakers and \$25,000 to assist in maintaining the rights of the people and the fair fame of the new state. If we cannot start right we prefer not to start at all.

THE GRAND FORKS BUSINESS MEN'S ASSOCIATION.  
GRAND FORKS, N. D., Aug. 8, 1889.

*To the President of the Constitutional Convention:*

Please advise the Constitutional Convention that the people of Grand Forks county expect the privilege of voting on a Constitution pure and simple. If the Constitution be encumbered with jobs and schemes in such a manner that we must ratify them or reject the Constitution we prefer personal and public inconvenience to public disgrace.

S. S. TITUS, and 112 others.

GRAND FORKS, N. D., Aug. 13.

*To the President of the Constitutional Convention:*

A mass convention here to-night adopted the following:

WHEREAS the Constitutional Convention now in session at Bismarck has adopted by a majority vote thereof an article providing for the permanent location of public institutions which it is proposed to submit with and as a part of the Constitution in such a manner that the people must either vote to endorse these matters not germane to the constitution proper, or to vote against the Constitution and in favor of the continuation of our present territorial form of government. Therefore, be it

*Resolved*, By the citizens of Grand Forks county in mass meeting assembled that we most earnestly and emphatically protest against the insertion of any such provision in the body of the Constitution as being subversive of the rights of the people; we demand the privilege of voting on the Constitution pure and simple, containing only such fundamental principles as may be necessary basis for a state government. We look with alarm upon the propensity exhibited to interpolate legislative questions which do not directly benefit the whole people. The people of North Dakota have struggled too earnestly and too long for the privilege of citizenship under the National government to now make their admission dependent upon their willingness to endorse matter foreign to the Constitution proper. If questions purely legislative must be submitted, let them be submitted separately in order that the people may voice their sentiments without involving the Constitution proper. Further, be it

*Resolved*, That we desire our representatives at the Constitutional Convention together with representatives from the other counties to use all their combined efforts to keep out of the Constitution all matters pertaining to the locating of public buildings and all other matters foreign to a Constitution.

D. McDONALD,  
Secretary.

W. J. MURPHY,  
Chairman.

CASSELTON, N. D., Aug. 12.

*To the President of the Constitutional Convention:*

Please inform the convention that at a public mass meeting held here to-night at which three-fourths of the voters of the city were present and participated, it was unanimously resolved as the sense of the meeting that in case the location of the public institutions should be incorporated in the Constitution that all honorable means will be used to defeat it at the polls.

R. D. GLASGOW, Chairman.  
F. H. CARTER, Secretary.

JAMESTOWN, AUGUST 8.

*To the President of the Constitutional Convention:*

Please accept congratulations on securing location of Feeble Minded Asylum at Jamestown. This Institution is unquestionably the most important and desirable of any assigned by the Convention, and Jamestown has reason to be grateful, and time will prove its wise judgement of her delegates in this selection.

O. W. ARCHIBALD.

ABERCROMBIE POST, No. 79, G. A. R. }  
LISBON, N. D., AUGUST 10, 1889. }

*To the President of the Constitutional Convention:*

I, R. M. Davis, Commander of Abercrombie Post, No. 79 G. A. R., of Lisbon, N. D., do hereby certify that the following Resolution was introduced by Comrade, Major C. W. Buttz, and was on his motion on the night of August 10, 1889, unanimously adopted:

*Resolved*, That we fully appreciate the efforts made and the results accomplished by the Hon. R. N. Stevens and the Hon. Andrew Sandager, Ransom County's delegates in the Constitutional Convention of North Dakota, in securing the location of the Soldiers Home at Lisbon;

*Resolved*, That we believe it now becomes the duty of all persons and parties to co-operate and work together to secure the building of the Home, because it will not only benefit the deserving soldiers, but will be a help and credit to the State and Ransom County, and more especially Lisbon;

*Resolved*, That it now becomes the duty of the voters of Ransom County to send such persons to the Legislature of our new State, as will use every proper means to secure the building of the Soldiers Home;

*Resolved*, Further, that we hereby tender to Messrs. Stevens and Sandager the best wishes and thanks of our Post, and believe that we express the feelings of all soldiers and our citizens generally in doing so;

*Resolved*, Further, that a copy of the resolutions be forwarded to the President of said Convention, with request that the same be read to the Convention, and copies be also forwarded to Messrs. Stevens and Sandager.

GEORGE L. FORWARD, Adjutant,  
R. M. DAVIS, Commander.

LISBON, N. D., Aug. 12, 1889.

*To the President of the Constitutional Convention:*

At a public mass meeting held on the 12th day of August, 1889, in the City of Lisbon, N. D., the following resolutions were unanimously adopted:

*Resolved*, That we, the people of Ransom county, do fully appreciate the efforts of the Committee on Public Institutions, appointed by President Fancher of the Constitutional Convention, and

*Resolved*, That we favor and approve the action taken by the Committee of the Whole, in the passage of the report of the said committee.

*Resolved*, That it is to the best interest and future peace and stability of our new state and the welfare and success of its public institutions, that the location of the same should be permanently settled now and for all time to come, thereby removing from our political horizon what would almost be a serious bone of contention so long as the question remains unsettled, and seriously impede and clogg the wheels of legislatures and much needed legislation.

*Resolved*, That as a people we consider it our duty to co-operate with our delegates the Hon. R. N. Stevens and Hon. Andrew Sandager in every just and honorable manner in securing the final passage of said bill to locate the public institutions.

*Resolved*, That Ransom county verify and ratify the above resolutions by casting her independent ballot, 2000 strong, for the adoption of this report.

*Resolved*, That a copy of these resolutions be sent, by committee, to



President Funcher and also to' Ransom county's delegates at the Convention in session at Bismarck, N. D.

E. C. LUCAS,  
R. J. ADAMS,  
E. J. RYMAN,  
H. A. GROVER,  
F. D. APLIN,  
Committee.

LISBON, N. D., Aug. 12, 1889.

*To the President of the Constitutional Convention:*

At a special meeting of the City Council of the city of Lisbon, N. D., held on the 12th day of August, 1889, the following resolutions were unanimously adopted:

WHEREAS, The Constitutional Convention, in its wise judgment, saw fit to locate the public institutions for the coming State of North Dakota, thereby forever putting an end to the uncertainties and very expensive actions of future Legislatures in the premises, therefor, be it

*Resolved*, That we hereby endorse the action of the Constitutional Convention in locating the public institutions for the new State of North Dakota.

*Resolved*, That we hereby extend our hearty thanks to the Constitutional Convention for the magnificent gift of a Soldiers' Home to be located in the city of Lisbon, and that we pledge the matter our hearty support.

*Resolved*, That we hereby commend the actions of our delegates, Messrs, Stevens and Sandager, for the part they may have taken in the matter.

*Resolved*, That these resolutions be sent to Bismarck by committee.

W. J. HUGHES,  
City Auditor pro tem.

W. D. PALMETIN,  
President of Council.

CASSELTON, Aug. 13, 1889.

*To the President of the Constitutional Convention:*

Say that the sentiment here is not by any means unanimous. Many of our people are in favor of leaving matters as to location of public institutions as the Convention has fixed them. The disturbance is purely local and hinges on the Agricultural college. Cass county will give a rousing majority for Constitution, with the location feature left in. If the Agricultural college had been located here there would not have been the ghost of a kick. So you see it is not a matter of principle, but of local interest. The adoption of the Constitution will not be in the least endangered by locating capital and state institutions, for it will remove a source of evil and corruption from the Legislature. There is more Chinese gong and tom tom about this opposition than there is of real hostility about this opposition. I have talked with leading men and know how they feel. There is not a bit of opposition to Bismarck as the capital. It is all against Fargo having the Agricultural college and there are two hundred votes here and sixteen hundred in Fargo.

W. C. PLUMMER.

MINTO, N. D., Aug. 11, 1889.

*To the President of the Constitutional Convention:*

We, the undersigned Committee appointed by the mass meeting of the city of Minto, Walsh county, North Dakota, held on the 10th day of August, 1889, would respectfully submit the following:

WHEREAS, We consider that the Constitutional Convention has exceeded its authority in locating the state institutions and in allotting state lands; that they were not chosen for that purpose, but that the State Legislature, which is to convene next December, should have the authority of locating our State Institutions and the disposition of our public lands under the act of Congress creating the State of North Dakota, approved February 22d, 1889, and that our delegates were sent to form a Constitution that will insure justice, domestic tranquility and promote the general welfare of our new state,

and that when the Constitution is framed their labors are ended and they have no authority to interfere with out state institutions or officers. Therefore,

*Resolved*, That we heartily endorse the course taken by all the delegates of Walsh county, and the action of the noble *thirty* who championed the people's rights, and that when they voted "no" on File No. 143, reported article proposing to permanently locate public institutions and buildings, they voiced the real sentiments of the citizens of Walsh county.

*Resolved*, That we respectfully request you to reconsider all action in regard to the aforesaid article and vote it down at its third reading.

*Resolved*, That we will do all in our power next October to defeat the Constitution by at least 4,000 majority in Walsh county, if it contains the obnoxious article having for its object the locating of the state institutions of North Dakota.

E. E. DAILY,  
JNO. R. YOST,  
JAMES TWOMLEY,  
W. G. MITCHELL,  
G. H. MCPHERSEN,  
Committee.

CASSELTON, August 12.

*To Delegates R. M. Pollock and H. M. Peterson:*

**GENTLEMEN:** We, the undersigned, qualified voters of the city of Casselton, heartily approve your course in challenging the right of the Constitutional Convention to locate the public institutions of North Dakota. We protest against the usurpation of powers that belong to the Legislature, and condemn the exercise of such arbitrary and unwarranted authority as will arouse the indignation of the people and make the adoption of the Constitution a matter of great uncertainty.

R. D. GLASGOW AND 115 OTHERS.

PARK RIVER, Aug. 10, 1889.

*To the President of the Constitutional Convention:*

**WHEREAS**, The Constitutional Convention of North Dakota now in session in the city of Bismarck, have adopted File No. 143, providing for the permanent location of the public institutions of the state, and parcelling out the public lands to the same: Therefore, be it

*Resolved*, By the citizens of western Walsh county, regardless of politics, assembled at Park River, this 10th day of August, 1889, in mass Convention; that we do most emphatically protest against the provisions of File No. 143, as a usurpation on the Legislative rights of the people, and without a precedent in the history of our country;

That we demand the right to vote upon a Constitution embodying only such fundamental principals as may be necessary to form the basis of a state government;

That if such matters, foreign to a Constitution proper, as are embodied in File No. 143, must be submitted to the people of North Dakota at this time, we demand that they be submitted as a separate clause, the rejection of which will not endanger the body of the Constitution itself.

Further, believing the minority report of the Committee on Public Institutions and Buildings embodied in File No. 146 to be eminently proper and just, we most earnestly petition the Constitutional Convention to reconsider their action on their reports; and we still further pledge our votes and influence in October next in accordance with these resolutions.

J. M. MILLSPAUGH,  
W. H. DOUGLAS,  
H. H. HOSFORD,  
Committee, and 127 others.

SHELDON, Aug. 10, 1889.

*To the President of the Constitutional Convention :*

At a mass meeting of the citizens of the Town of Sheldon, at the school house in said town assembled this 10th day of August, A. D. 1889, the following resolution was unanimously adopted:

*Resolved*, That the report of the Committee on Public Institutions in favor of the location of the Soldiers' Home at Lisbon, Ransom county, with a grant of 40,000 acres of land, be and the same hereby is heartily ratified and endorsed, and the delegates to the Constitutional convention from the——— district are earnestly requested to vote in favor of the same and to use every legitimate means and exert every proper influence to secure the approval and adoption of said report by the Convention.

MARION GRANGE P. M., and 33 others.

Mr. Scott moved that the further reading of these petitions, protests and communications be postponed and that they be referred to a committee to be appointed by the chair.

Which motion was withdrawn.

BARNES COUNTY, August 10, 1889.

*To the President of the Constitutional Convention :*

The citizens of Barnes county warmly approve of the action of your Convention in locating the public institutions of the State of North Dakota. They believe that no act of this Convention should be more commended than this. They believe it insures permanency and stability, and means a saving of many thousand dollars to the State of North Dakota.

JOHN ANDERSON and 43 others.

PORTLAND, Traill County, N. D., Aug. 10, 1889.

*To Hon. J. F. Selby, Delegate to the Constitutional Convention for North Dakota from Traill County :*

We, the undersigned citizens of Traill county, hereby declare that we represent the opinion of a large proportion of the people of Western Traill, and that we hereby most strenuously protest against the proceedings of the Constitutional Convention in permanently locating the capital of North Dakota and the public institutions of the State and apportioning the public lands.

We demand our Constitutional rights as citizens of North Dakota in having a voice in the location of our capital and public institutions. The Constitution as it now stands will be defeated by a large majority in Western Traill.

We prefer political honor, even under a territorial carpetbag government, to anything that is tainted with political dishonor and rotten jobbery, and any usurpation of the powers vested in the people of a free and Republican form of government.

We demand at the hands of the Constitutional Convention, a Constitution for North Dakota that is pure and simple, and that will stand as a proper foundation upon which can be erected the laws that will govern one of the grandest States of the Union.

C. CRANSTON, and 93 others.

GRAND FORKS, N. D., Aug. 8, 1889.

*To the President of the Constitutional Convention :*

The adoption of the Constitution will be defeated in this locality unless the article locating the Capital is stricken out, and we earnestly protest against the location of state institutions by an article in the Constitution.

WM. H. FELLOWS, and 66 others.

HATTON, N. D., Aug. 12, 1889.

*To the President of the Constitutional Convention :*

The citizens of Hatton and vicinity in mass meeting assembled wish to express their appreciation of the step taken by the Constitutional Convention in

regard to the location of public institutions for North Dakota. We have nothing, but believe the distribution has been made in a spirit of fairness, and aside from local favors, we are profoundly thankful that a great source of corruption and jobbery has been removed.

We know of no person in that part of the counties of Traill, Steele and Grand Forks tributary to Hatton who does not fully agree with us in this.

T. E. NELSON,  
Secretary.

A. FROSLID,  
Chairman

MAYVILLE, N. D., August 8, 1889.

*To Hon. E. M. Paulson:*

The citizens of Mayville extend congratulations to yourself and Hegge.  
N. D. NILSON, Mayor.

MAYVILLE, August 12, 1889.

*To the President of the Constitutional Convention:*

WHEREAS, It has come to our knowledge that certain towns in North Dakota of the "dog in the manger stamp" are attempting to discredit the action of the Constitutional Convention in locating the public buildings and institutions of the new State of North Dakota, and are charging corruption on the members who voted for the measure. Therefore, be it

*Resolved,* By the citizens of Mayville and vicinity, in mass convention assembled, that we approve fully and heartily the action of our delegates from Traill county, Hons. E. M. Paulson and M. F. Hegge, in working and voting for the measure.

That we repudiate the accusation of corruption charged against them and other members of the Convention as simply the emanation of disappointed and envious minds.

That we think the locations as made in the proposed article are fair and just, and we believe satisfactory to a large majority of the voting population and taxpayers of the state.

That we particularly approve of the permanent location of the capital at Bismarck on economic grounds, believing also that its removal, while entailing enormous expense to the state, would be an act of gross injustice and bad faith with the people of Bismarck. Finally,

That we believe it eminently proper and wise that the location of the public buildings and institutions should be made by the Constitutional Convention, thus removing from legislative consideration for all future time the vexatious questions of public institutions which have been such a source of political contention and trading in the past.

The above resolutions were passed unanimously at a large mass meeting held this 12th day of August, 1889, at the city hall in Mayville, N. D.

L. B. GIBBS,  
Secretary.

L. A. LINCOLN,  
Chairman.

TRAILL COUNTY, N. D., Aug. 8, 1889.

*To the President of the Constitutional Convention:*

We, the undersigned citizens and taxpayers of Traill county, North Dakota, fully commend and endorse the position taken, and the vote of the Honorable M. Paulson and M. F. Hegge, relating to File No. 143 in regard to the location of public buildings for North Dakota.

W. H. ROBINSON, and 200 others.

TRAILL COUNTY, N. D., Aug. 13.

*To the President of the Constitutional Convention:*

We, the undersigned citizens and taxpayers of Traill and Steele counties, North Dakota, fully commend and endorse the position taken and the vote of the Hons. E. M. Paulson and M. F. Hegge, relating to File No. 143 in regard to the location of public buildings for North Dakota.

A. FROSLID and 61 others.

GRAND FORKS COUNTY, N. D., Aug. 8.

*To the President of the Constitutional Convention:*

We, the undersigned citizens of Grand Forks county, North Dakota, fully commend and endorse the position taken and the vote of the Hons. M. F. Hegge and E. M. Paulson relating to File No. 143 in regard to the location of public buildings for North Dakota:

C. L. THORSTAD and 17 others.

TRAILL COUNTY, N. D., Aug. 8, 1889.

*To the President of the Constitutional Convention:*

We, the undersigned citizens and tax-payers of Traill county, North Dakota, fully commend and endorse the position taken, and the vote of the Honorables E. M. Paulson and M. F. Hegge, relating to File No. 143 in regard to location of public buildings for North Dakota.

H. J. SHERIDAN and 52 others.

TRAILL COUNTY, Aug. 8, 1889.

*To the President of the Constitutional Convention:*

We, the undersigned citizens and taxpayers of Traill county, North Dakota, fully commend and endorse the position taken, and the vote of Honorables E. M. Paulson and M. F. Hegge relating to File No. 143 in regard to location of public buildings for North Dakota.

JAMES A. McDONALD, and 27 others.

■ LAKOTA, N. D., August 10, 1889.

*To the President of the Constitutional Convention:*

At a mass convention of the people of Nelson county held at the court house in Lakota on Saturday evening, August 10, 1889, the following resolutions were unanimously adopted:

WHEREAS, The Constitutional Convention of North Dakota have, in defiance of the wishes of the constituents of the members thereof adopted the majority report of the Committee on Public Institutions, which report has been made a part of the Constitution; and

WHEREAS, We believe that the action of said Convention in so doing was the work of a corrupt and subsidized majority, and is against the best interests of the people of North Dakota, therefore, be it

*Resolved*, By the people of Nelson County, irrespective of party in mass Convention assembled, that we unqualifiedly condemn the action of said Convention in attempting to deprive the people of the privilege of voting upon the location of the Capital and other public institutions, and we do each and every one pledge ourselves, in case that the Constitution shall be submitted with the obnoxious plank contained therein permanently closing the Capital of the state without the question of location being first submitted to the people that we will not only vote against it, but also use every honorable means to defeat its adoption.

That we earnestly desire our representatives upon the reassembling of said Convention, to use every effort to have the article locating the Capital submitted as a separate article of said Constitution that we may be permitted to vote upon it.

W. H. STANDISH,  
A. J. GRONNA,  
E. MAPES,  
D. S. DODDS,  
FRED A. KELLEY,  
Committee on Resolutions.

WHEATLAND, Aug. 12, 1889.

*To the President of the Constitutional Convention:*

We, the undersigned citizens of Wheatland township, Cass county, heartily approve the action of the Cass county delegates to the Constitutional Convention in locating the public institutions and especially in securing the Agricultural College for Cass county.

J. W. BURNHAM, and 25 others.

FARGO, N. D., Aug. 8 1889.

*To the President of the Constitutional Convention:*

At a meeting of the board of trade of Fargo (a corporation) the following resolutions, presented by J. A. Johnson, were adopted by a unanimous vote:

WHEREAS, the members of the Constitutional Convention of North Dakota have about reached the end of their labors in executing the trust reposed in them by the sovereign people who are about to assume the weighty and solemn responsibilities of self government, and believing that the Convention is entitled to an acknowledgement on all hands for its faithful and efficient service, therefore, be it

*Resolved,* That the hearty and unanimous thanks of the Board of Trade of the City of Fargo are hereby tendered to the members of the Constitutional Convention of North Dakota, now assembled, for the able, faithful and patriotic manner in which they have performed their arduous duties, and especially as to the wise, satisfactory and equitable manner of locating the public institutions, thereby substantially removing from the state legislature a prolific source of contention, to say nothing of temptation to unjust and immoral combinations prejudicial to the public welfare; be it further

*Resolved,* That the board take every proper measure in supporting and holding up the hands of our delegates in their efforts for the common benefit; be it further

*Resolved,* That the thanks of this board are especially tendered to Messrs. Miller, Spalding and Lowell, of Fargo, and the other members from Cass county who acted with them.

Mr. Miller moved that all the communications read be referred to a committee of five to be appointed by the chair.

Ayes and nays were demanded.

The roll being called there were ayes 40, nays 24.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Bartlett of Dickey,	Griggs,	Ray,
Blewett,	Harris,	Richardson,
Brown,	Hegge,	Rolfe,
Camp,	Holmes,	Rowe,
Carland,	Hoyt,	Sandager.
Chaffee,	Lohnes,	Scott,
Clapp,	Lowell,	Shuman,
Colton,	Meacham,	Spalding.
Elliott,	McKenzie,	Stevens,
Fay,	Miller,	Wellwood,
Flemington,	Moer,	Whipple.
Gayton,	Paulson,	Williams.
Glick,	Peterson,	
Gray,	Powles,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Allin,	Johnson,	Parsons of Rolette,
Bartlett of Griggs,	Lauder,	Purcell,

Bell,  
Bennett,  
Budge,  
Carothers,  
Douglas,  
Haugen,

Linwell,  
Mathews,  
McBride,  
Noble,  
Nomland,  
O'Brien,

Pollock,  
Robertson,  
Selby,  
Slotten,  
Turner,  
Wallace.

Absent and not voting:

Messrs—  
Almen,  
Appleton,  
Bean,  
Best,

Messrs—  
Clark,  
Leach,  
Marrinan,  
McHugh,

Messrs—  
Parsons of Morton,  
Powers,  
Mr. President.

And so the motion prevailed.

The President appointed the following as such committee:  
Messrs. Miller, Johnson, Stevens, Selby and Colton.

#### REPORT OF THE COMMITTEE ON ACCOUNTS AND EXPENSES.

MR. PRESIDENT:

Your Committee on Accounts and Expenses respectfully report: That after a full interview with the Secretary of the Territory they have ascertained that the appropriation of \$20,000 made by the United States for the Constitutional Convention of North Dakota, is sufficient to pay members per diem for thirty-one days, mileage in full, \$3,750 for printing and \$500 for stationery and incidental expenses. Also the per diem of the Chief Clerk, Enrolling and Engrossing Clerk, Messenger, Sergeant-at-Arms, Chaplain and Watchman for thirty-one days, thereby making it encumbent upon the State of North Dakota to assume and pay the per diem of the members of the convention for each day exceeding thirty-one days; and also, of the Chief Clerk, Enrolling and Engrossing Clerk, Messenger, Sergeant-at-Arms, Chaplain, Watchman, for such days in excess of the thirty-one days as the convention has or may be in session.

The Secretary states that under his instructions from the United States he is unable to pay any clerks of committees, stenographers, door-keeper, pages or any expert accountants, and therefore, all expenses incurred by the convention on this account must be assumed by the State of North Dakota. Under a resolution passed by the convention we find that the following clerks, with the number of days, were discharged, and certificates of indebtedness issued to them in accordance with the resolution passed by the Constitutional Convention, signed by the President and Chief Clerk of the convention, to-wit:

M. M. Miller, 15 days Clerk Legislative Committee at \$5.....	\$75 00
F. H. Register, 15 days Clerk Legislative Committee at \$5.....	75 00
Mrs. Etta Linn, 14 days as Clerk Committee on Public Lands.....	70 00
Geo. P. Stillman, Stenographer for Joint Commission and transcribing	338 65
Wm. G. Hayden, Expert Accountant for Joint Commission.....	170 00
A. E. Bennett, Clerk Joint Commission 21 days at \$6.....	126 00
G. P. Stillman, 1 day Clerk Committee on Education.....	6 00
J. B. Wineman, Clerk Committee Municipal Corporations 15 days at \$5.....	75 00
E. H. Sanford, Clerk Commission to Divide Public Property 22 days at \$6.....	132 00
Margaret H. Davidson, Clerk Judiciary Committee 17 days at \$5.....	85 00
George Auld, Clerk Corporations Committee 13 days at \$5.....	65 00

There will remain for the State of North Dakota to assume and pay the salaries of the following clerks for the days herein enumerated and at the respective sums per diem set opposite their names.

M. L. Waterbury, July 15, Assistant Enrolling and Engrossing Clerk.	\$5 00
Wm. G. Hayden, Aug. 3, 1889, Clerk Committee on Revision and Ad- justment.....	6 00

E. H. Sandford, Aug. 3, 1889, Clerk Committee on Revision and Adjustment.....	6 00
Mary D. Matteson, July 12, 1889, Clerk Apportionment Committee..	5 00
William Gleason, Janitor, July 4, 1889.....	5 00
George Wentz, Doorkeeper, July 4, 1889.....	5 00
R. M. Tuttle, Stenographer, July 4, 1889, \$10 per diem and ten cents per folio for transcribing.	
Arthur E. Linn, Page, July 4, 1889.....	2 00
Harry G. Ward, Page, July 4, 1889.....	2 00
Charles Lauder, Page, July 4, 1889.....	2 00
Charles W. Conroy, Page, July 4, 1889.....	2 00
Geo. P. Stillman, Clerk Committee on Revision and Adjustment, Aug. 3, 1889.....	6 00
W. E. Raymond, Clerk Committee on Miscellaneous Subjects, July 17, 1889.....	6 00
C. M. Larrabee, Clerk Committee on Schedule and Revision and Adjustment, July 29, 1889.....	6 00

We find that each one of these persons has been employed as stated above at the *per diem* stated above, for services performed and are entitled to compensation therefor.

We are unable to report accurately the total cost of printing ordered and authorized by the Convention, but as near as we can estimate the same, we find—all printing for the Convention to date amounts to about \$2,500. When finally completed it is estimated that the total expense of printing including the printing and binding of the Journals and debates will amount to \$5,500. Of this sum the general government appropriates \$3,750, leaving about \$1,750 to be paid by the State of North Dakota.

There are some small bills for incidental expenses incurred for telegraphing which have been referred to the secretary and, in case he declines to pay the same out of the appropriation of \$20,000, the sum must be paid by the State of North Dakota. They amount in the aggregate to about \$13.

In addition to these expenses the State of North Dakota necessarily must provide for the revision, indexing and superintending the printing of the Journals and debates of the Convention. A reasonable estimate of the expense of this work is \$600, as we find that the Legislative Assembly of Dakota has heretofore allowed the chief clerks of the house and council respectively \$360 each for transcribing, indexing, superintending, printing and distribution of the Journals of the respective houses. We estimate that the indexing and superintending the printing of the Journal and debates of the Convention will fall within its limits.

We believe that the Journals and debates of the Convention can be revised, printed and be ready for distribution within sixty days from the adjournment of the Convention.

The matter of the printing and publishing the Constitution as finally adopted by the Convention is respectfully referred to the Convention for such action as it deems wise. Respectfully submitted,

O. G. MEACHAM,

Chairman Committee on Accounts and Expenses.

The Committee on Revision and Adjustment submitted the following report:

Mr. Camp moved that the report be read by its title only.

Which motion prevailed.

MR. PRESIDENT :

Your Committee on Revision and Adjustment have had under consideration the several articles of the Constitution referred to them, and respectfully re-



port the following arrangement for the same, with their suggestions and corrections noted at the end of each section.

DAVID BARTLETT,  
Chairman.

## CONSTITUTION OF NORTH DAKOTA—1889.

### PREAMBLE.

WE, the people of North Dakota, grateful to Almighty God for the blessings of civil and religious liberty, do ordain and establish this Constitution.

### ARTICLE I.

#### DECLARATION OF RIGHTS.

SECTION 1. All men are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation, and pursuing and obtaining safety and happiness.

SEC. 2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have a right to alter or reform the same whenever the public good may require it.

[Recommend strike out "it" at close of section.]

SEC. 3. The State of North Dakota is an inseperable part of the American Union and the Constitution of the United States is the supreme law of the land.

SEC. 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference shall be forever guaranteed in this state, and no person shall be rendered incompetent to be a witness or juror on account of his opinion on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.

SEC. 5. The privilege of the writ of habeas corpus shall not be suspended unless, when in case of rebellion or invasion, the public safety may require.

SEC. 6. All persons shall beailable by sufficient sureties, unless for capital offences when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel or unusual punishments be

inflicted. Witnesses shall not be unreasonably detained, nor confined in any room where criminals are actually imprisoned.

[Recommend insertion of word "be" before word "confined."]

SEC. 7. The right of trial by jury shall be secured to all, and remain inviolate; but a jury in civil cases, in courts not of record may consist of less than twelve men, as may be prescribed by law.

SEC. 8. That, until otherwise provided by law, no person shall, for a felony, be proceeded against criminally, otherwise than by indictment, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger. In all other cases, offences shall be prosecuted criminally by indictment or information. The Legislative Assembly may change, regulate or abolish the grand-jury system.

[Recommend striking out "that" at beginning of section and capitalize "until."]

SEC. 9. Every man shall have the right freely to write, speak and publish his opinions on all subjects, being responsible for the abuse of that privilege. In all civil and criminal trials for libel the truth may be given in evidence, and shall be a sufficient defense when the matter is published with good motives and for justifiable ends; and the jury shall have the same power of giving a general verdict as in other cases; and in all indictments or informations for libels the jury shall have the right to determine the law and the facts under the direction of the court as in other cases.

[Recommend strike out the words "shall have the right" in first line and insert the word "may," also strike out word "to" after "freely."]

SEC. 10. The citizens have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with the powers of government for the redress of grievances, or other proper purposes, by petition, address or remonstrance.

[Insert the word "for" between "or" and "other proper purposes."]

SEC. 11. All laws of a general nature shall have a uniform operation.

SEC. 12. The military shall be subordinate to the civil power. No standing army shall be kept up by this state in time of peace, and no soldiers shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in the manner prescribed by law.

[Insert the word "maintained" in lieu of "kept up."]

SEC. 13. In criminal prosecutions in any court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the court to compel the attendance of witnesses in his behalf; and to appear and defend in person and with coun-

sel. No person shall be twice put in jeopardy for the same offense, nor be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law.

SEC. 14. Private property shall not be taken or damaged for public use without just compensation having been first made to, or paid into court for the owner, and no right of way shall be appropriated to the use of any corporation other than municipal until full compensation therefor be first made in money or ascertained and be paid into court for the owner irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived as in other cases of a court of record, as shall be prescribed by law.

[Strike out all after the word "waived."]

SEC. 15. No person shall be imprisoned for debt unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law; or in cases of tort; or where there is strong presumption of fraud.

SEC. 16. No bill of attainder, *ex post facto* law, or law impairing the obligations of contracts shall ever be passed.

SEC. 17. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this state.

SEC. 18. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

SEC. 19. Treason against the state shall consist only in levying war against it, adhering to its enemies or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act or confession in open court.

SEC. 20. No special privileges or immunities shall ever be granted which may not be altered, revoked or repealed by the Legislative Assembly; nor shall any citizen or class of citizens be granted privileges or immunities which upon the same terms shall not be granted to all citizens.

SEC. 21. The provisions of this Constitution are mandatory and prohibitory unless, by express words, they are declared to be otherwise.

SEC. 22. All courts shall be open, and every man for any injury done him in his lands, goods, person or reputation shall have remedy by due process of law, and right and justice, administered without sale, denial or delay. Suits may be brought against the

state in such manner, in such courts, and in such cases, as the Legislative Assembly may, by law, direct.

SEC. 23. Every citizen of this state shall be free to obtain employment wherever possible, and any person, corporation, or agent thereof, keeping a black-list, interfering or hindering in any way, a citizen from obtaining or enjoying employment already obtained, from any other corporation or person, shall be deemed guilty of conspiracy against the welfare of the state, which offense shall be punished as shall be prescribed by law.

[Recommend that this section be stricken out as in conflict with section 9 of "Declaration of Rights."]

SEC. 24. To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government and shall forever remain inviolate.

## ARTICLE II.

### THE LEGISLATIVE DEPARTMENT.

SEC. 25. The legislative power shall be vested in a senate and house of representatives.

SEC. 26. The senate shall be composed of not less than thirty nor more than fifty members.

SEC. 27. Senators shall be elected for the term of four years, except as hereinafter provided.

SEC. 28. No person shall be a senator who is not a qualified elector in the district in which he may be chosen, and who shall not have attained the age of twenty-five years, and have been a resident of the state or territory for two years next preceding his election.

SEC. 29. The Legislative Assembly shall fix the number of senators, and divide the state into as many senatorial districts as there are senators, which districts as nearly as may be, shall be equal to each other in the number of inhabitants entitled to representation. Each district shall be entitled to one senator and no more, and shall be composed of compact and contiguous territory; and no portion of any county shall be attached to any other county, or part thereof, so as to form a district. The districts as thus ascertained and determined shall continue until changed by law.

SEC. 30. The senatorial districts shall be numbered consecutively from one upwards, according to the number of districts prescribed, and the senators shall be divided into two classes. Those elected in the districts designated by even numbers shall constitute one class, and those elected in districts designated by odd numbers shall constitute the other class. The senators of one class shall hold their office for two years, those of the other class shall hold their office four years, and the determination of the two

classes shall be by lot, so that one-half of the senators, as nearly as practicable, may be elected biennially.

SEC. 31. The senate, at the beginning and close of each regular session, and at such other times as may be necessary, shall elect one of its members president pro tempore, who may take the place of the Lieutenant Governor under rules prescribed by law.

SEC. 32. The house of representatives shall be composed of not less than sixty, nor more than one hundred and forty members.

SEC. 33. Representatives shall be elected for the term of two years.

SEC. 34. No person shall be a representative who is not a qualified elector in the district for which he may be chosen, and who shall not have attained the age of twenty-one years, and have been a resident of the state or territory for two years next preceding his election.

SEC. 35. The members of the House of Representatives shall be apportioned to and elected at large from each senatorial district.

SEC. 36. The House of Representatives shall elect one of its members as speaker.

SEC. 37. No judge or clerk of any court, secretary of state, attorney general, register of deeds, sheriff or person holding any office of profit under this state, except officers in the militia or the office of attorney-at-law, notary public or justice of the peace, and no person holding any office of profit or honor under any foreign government, or under the government of the United States, except postmasters whose annual compensation does not exceed the sum of \$300, shall hold any office in either branch of the Legislative Assembly or become a member thereof.

SEC. 38. No member of the Legislative Assembly, expelled for corruption, and no person convicted of bribery, perjury or other infamous crime shall be eligible to the Legislative Assembly, or to any office in either branch thereof.

SEC. 39. No member of the Legislative Assembly shall, during the term for which he was elected, be appointed or elected to any civil office in the state, which shall have been created, or the emoluments of which shall have been increased, during the term for which he was elected; nor shall any member receive any civil appointment from the Governor, or Governor and senate, during the term for which he shall have been elected.

SEC. 40. If any person elected to either house of the Legislative Assembly shall offer or promise to give his vote or influence, in favor of, or against any measure or proposition pending or proposed to be introduced into the Legislative Assembly, in consideration, or upon conditions, that any other person elected to the same Legislative Assembly will give or will promise or assent to give, his vote or influence in favor of or against any other measure

or proposition, pending or proposed to be introduced into such Legislative Assembly, the person making such offer or promise shall be deemed guilty of solicitation of bribery. If any member of the Legislative Assembly, shall give his vote or influence for or against any measure or proposition, pending or proposed to be introduced into such Legislative Assembly, or offer, promise or assent so to do upon condition that any other member will give, promise or assent to give his vote or influence, in favor of or against any other such measure or proposition, pending or proposed to be introduced into such Legislative Assembly, or in consideration that any other member hath given his vote or influence, for or against any other measure or proposition in such Legislative Assembly, he shall be deemed guilty of bribery. And any person, member of the Legislative Assembly or person elected thereto, who shall be guilty of either of such offenses shall be expelled, and shall not hereafter be eligible to the Legislative Assembly, and, on the conviction thereof in the civil courts, shall be liable to such further penalty as may be prescribed by law.

SEC. 41. The term of service of the members of the Legislative Assembly shall begin on the first Tuesday in January, next after their election.

SEC. 42. The members of the Legislative Assembly shall in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to or returning from the same. For words used in any speech or debate in either house, they shall not be questioned in any other place.

SEC. 43. A member who has a personal or private interest in any measure or bill proposed or pending before the Legislative Assembly, shall disclose the fact to the house of which he is a member, and shall not vote thereon without the consent of the house.

SEC. 44. The Governor shall issue writs of election to fill such vacancies as may occur in either house of the Legislative Assembly.

SEC. 45. Each member of the Legislative Assembly shall receive as a compensation for his services for each regular session, five dollars per day, and ten cents for every mile of necessary travel in going to and returning from the place of the meeting of the Legislative Assembly, on the most usual route; and five dollars per day for extra sessions, and ten cents for every mile of necessary travel in going to and returning from the place of meeting of the Legislative Assembly, on the most usual route.

[Recommend to strike out the word "regular" and all after the words "usual route."]

SEC. 46. A majority of the members of each house shall constitute a quorum, but a smaller number may adjourn from day to

day, and may compel the attendance of absent members, in such a manner, and under such a penalty as may be prescribed by law.

SEC. 47. Each house shall be the judge of the election returns and qualifications of its own members.

SEC. 48. Each house shall have the power to determine the rules of proceeding, and punish its members or other persons for contempt or disorderly behavior in its presence; to protect its members against violence or offers of bribes, or private solicitation, and with the concurrence of two-thirds, to expel a member; and shall have all other powers necessary and usual in the Legislative Assembly of a free state. But no imprisonment by either house shall continue beyond thirty days. Punishment for contempt or disorderly behavior shall not bar a criminal prosecution for the same offense.

SEC. 49. Each house shall keep a journal of its proceedings, and the yeas and nays of any question shall be taken and entered on the journal at the request of one-sixth of those present.

SEC. 50. The sessions of each house and of the committee of the whole shall be open unless the business is such as ought to be kept secret.

SEC. 51. Neither house shall without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting, except in case of epidemic, pestilence or other great danger.

SEC. 52. The senate and house of representatives jointly shall be designated as the Legislative Assembly of the State of North Dakota.

SEC. 53. The Legislative Assembly shall meet at the seat of government at twelve o'clock M. on the first Tuesday after the first Monday of January, in the year next following the election of the members thereof.

SEC. 54. In all elections to be made by the Legislative Assembly, or either house thereof, the members shall vote viva voce, and their votes shall be entered in the journal.

SEC. 55. The sessions of the Legislative Assembly shall be biennial, except as otherwise provided in this Constitution.

SEC. 56. No regular sessions of the Legislative Assembly shall exceed sixty days, except in case of impeachment, but the first session of the Legislative Assembly may continue for a period of one hundred and twenty days.

SEC. 57. Any bill may originate in either House of the Legislative Assembly, and a bill passed by one house may be amended by the other.

SEC. 58. No law shall be passed, except by a bill adopted by both houses, and no bill shall be so altered and amended on its passage through either house as to change its original purpose.

SEC. 59. The enacting clause of every law shall be as follows: Be it enacted by the Legislative Assembly of the State of North Dakota.

SEC. 60. No bill for the appropriation of money except for the expenses of the government, shall be introduced after the fortieth day of the session, except by unanimous consent of the house in which it is sought to be introduced.

SEC. 61. No bill shall embrace more than one subject, which shall be expressed in its title, but a bill which violates this provision shall be invalidated thereby only as to so much thereof as shall not be so expressed.

SEC. 62. The general appropriation bill shall embrace nothing but appropriations for the expenses of the executive, legislative and judicial departments of the state, interest on the public debt, and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.

SEC. 63. Every bill shall be read three several times, but the first and second readings, and those only, may be upon the same day; and the second reading may be by title of the bill unless a reading at length be demanded. The first and third readings shall be at length. No legislative day shall be shorter than the natural day.

SEC. 64. No bill shall be revised or amended or the provisions thereof extended or incorporated in any other bill by reference to its title only, but so much thereof as is revised, amended or extended or so incorporated shall be re-enacted and published at length.

SEC. 65. No bills shall become a law except by a vote of a majority of all the members elect in each house, nor unless, on its final passage, the vote be taken by yeas and nays, and the names of those voting be entered on the journal.

SEC. 66. The presiding officer of each house shall in the presence of the house over which he presides, sign all bills and joint resolutions passed by the Legislative Assembly; immediately before such signing their title shall be publicly read and the fact of signing shall be at once entered on the journal.

SEC. 67. No act of the Legislative Assembly shall take effect until July 1st, after the close of the session, unless in case of emergency (which shall be expressed in the preamble or body of the act) the Legislative Assembly shall, by a vote of two-thirds of all the members present in each house, otherwise direct.

SEC. 68. The Legislative Assembly shall pass all laws necessary to carry into effect the provisions of this Constitution.

SEC. 69. The Legislative Assembly shall not pass local or special laws in any of the following enumerated cases, that is to say:

- (1) For granting divorces.



- (2) Laying out, opening, altering or working roads or high-ways, vacating roads, town plats, streets, alleys or public grounds.
- (3) Locating or changing county seats.
- (4) Regulating county or township affairs.
- (5) Regulating the practice of courts of justice.
- (6) Regulating the jurisdiction and duties of justices of the peace, police magistrate or constables.
- (7) Changing the rules of evidence in any trial or inquiry.
- (8) Providing for changes of venue in civil or criminal cases.
- (9) Declaring any person of age.
- (10) For limitation of civil actions, or giving effect to informal or invalid deeds.
- (11) Summoning or impanneling grand or petit juries.
- (12) Providing for the management of common schools.
- (13) Regulating the rate of interest on money.
- (14) The opening or conducting of any election or designating the place of voting.
- (15) The sale of mortgage of real estate belonging to minors or others under disability.
- (16) Chartering or licensing ferries or toll bridges or toll roads.
- (17) Remitting fines, penalties or forfeitures.
- (18) Creating, increasing or decreasing fees, percentages or allowances of public officers.
- (19) Changing the law of descent.
- (20) Granting to any corporation, association or individual the right to lay down railroad tracks, or any special or exclusive privilege, immunity or franchise whatever.
- (21) For the punishment of crimes.
- (22) Changing the names of persons or places.
- (23) For the assessment or collection of taxes.
- (24) Affecting estates of deceased persons, minors or others under legal disabilities.
- (25) Extending the time for the collection of taxes.
- (26) Refunding money into the state treasury.
- (27) Relinquishing or extinguishing in whole or in part the indebtedness, liability or obligation of any corporation or person to this state, or to any municipal corporation therein.
- (28) Legalizing, except as against the state, the unauthorized or invalid act of any officer.
- (29) Exempting property from taxation.
- (30) Restoring to citizenship persons convicted of infamous crimes.
- (31) Authorizing the creation, extension or impairing of liens.
- (32) Creating offices, or prescribing the powers and duties of officers in counties, cities, townships, election or school districts, or authorizing the adoption or legitimation of children.
- (33) Incorporation of cities, towns or villages, or changing or amending the charter of any town, city or village.

(34) Providing for the election of members of the board of supervisors in townships, incorporated town or cities.

(35) The protection of game or fish.

SEC. 70. In all other cases where a general law can be made applicable, no special law shall be enacted; nor shall the Legislative Assembly indirectly enact such special or local law by the partial repeal of a general law; but laws repealing local or special acts may be passed.

### ARTICLE III.

#### EXECUTIVE DEPARTMENT.

SEC. 71. The executive power shall be vested in a Governor, who shall reside at the seat of government and shall hold his office for the term of two years and until his successor is elected and duly qualified; a Lieutenant Governor, who shall be elected at the same time and for the same term.

[Recommend that all after the word "qualified" be stricken from this section and that section 2 include the part stricken out adding thereto all of section 6.]

SEC. 72. No person shall be eligible to the office of Governor or Lieutenant Governor except a citizen of the United States, and a qualified elector of the state, who shall have attained the age of thirty years, and who shall have resided five years next preceding the election within the state or territory, nor shall he be eligible to any other office during the term for which he shall have been elected.

SEC. 73. The Governor and Lieutenant Governor shall be elected by the qualified electors of the state at the time and places of choosing members of the Legislative Assembly. The persons respectively having the highest number of votes for Governor and Lieutenant Governor shall be elected, but if two or more shall have an equal and highest number of votes for Governor or Lieutenant Governor, the two houses of the Legislative Assembly at its next regular session shall forthwith, by joint ballot, choose one of such persons for said office. The returns of the election for Governor and Lieutenant Governor shall be made in such manner as shall be prescribed by law.

[Recommend that the word "respectively" after the words "the persons" be stricken out and the word "respectively" be inserted after the words "Lieutenant Governor;" also before the word "elected" insert the word "declared."]

SEC. 74. The Governor shall be Commander-in-Chief of the military and naval forces of the state, except when they shall be called into the service of the United States, and may call out the same to execute the laws, suppress insurrection and repel invasion. He shall have power to convene the Legislative Assembly on extraordinary occasions. He shall at the commencement of each session communicate to the Legislative Assembly by message,

information of the condition of the state, and recommend such measures as he shall deem expedient. He shall transact all necessary business with the officers of the government, civil and military. He shall expedite all such measures as may be resolved upon by the Legislative Assembly and shall take care that the laws be faithfully executed.

SEC. 75. The Governor shall have power to remit fines and forfeitures, to grant reprieves, commutations and pardons after conviction, for all offenses except treason and cases of impeachment; but the Legislative Assembly may by law in all cases regulate the manner in which the remission of fines, pardons, commutations, and reprieves may be applied for. Upon conviction for treason he shall have power to suspend the execution of sentence until the case shall be reported to the Legislative Assembly at its next regular session, when the Legislative Assembly shall either pardon or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall communicate to the Legislative Assembly at each regular session each case of remission of fine, reprieve, commutation, or pardon granted by him, stating the name of the convict, the crime for which he is convicted, the sentence and its date, and the date of the remission, communication, pardon or reprieve, with his reason for granting the same.

[Recommend that the words "in all cases" after the words "Legislative Assembly may by law" be stricken out.

SEC. 76. In case of the death, impeachment, resignation, failure to qualify, absence from the state, removal from office, or the disability of the Governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the Lieutenant Governor.

[Recommend that section 6 be added to and made a part of section 2.]

SEC. 77. The Lieutenant Governor shall be president of the senate, but shall have only a casting vote therein. If during a vacancy in the office of Governor the Lieutenant Governor shall be impeached, displaced, resign, or die, or from mental or physical disease, or otherwise become incapable of performing the duties of his office, the Secretary of State shall act as Governor until the vacancy shall be filled or the disability removed.

[Recommend that the words "only a casting vote" after the words "but shall have," be stricken out and the following inserted "But shall have no vote unless they be equally divided."]

SEC. 78. When any office shall from any cause become vacant, and no mode is provided by the Constitution or law for filling such vacancy, the Governor shall have power to fill such vacancy by appointment.

SEC. 79. Every bill which shall have passed the Legislative Assembly shall before it becomes a law, be presented to the Gov-

ernor. If he approve, he shall sign, but if not, he shall return it with his objections, to the house in which it originated, which shall enter the objections at large upon the journal and proceed to reconsider it. If after such reconsideration two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objections to the other house, by which it shall likewise be reconsidered, and if it be approved by two-thirds of the members present, it shall become a law; but in all such cases the vote of both houses shall be determined by the yeas and nays, and the names of the members voting for and against the bill shall be entered upon the journal of each house respectively. If any bill shall not be returned by the Governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, unless the Legislative Assembly by its adjournment, prevent its return, in which case it shall be filed with his objection, in the office of the Secretary of State, within fifteen days after such adjournment, or become a law.

[Recommend that all after the words "shall be a law unless" down to the words "with his objections" be stricken out and that the following be inserted, "he shall file the same," also that the last four words be stricken out.]

SEC. 80. The Governor shall have power to disapprove of any item, or items, or part or parts of any bill making appropriations of money or property embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items, and part or parts disapproved shall be void, unless enacted in the following manner: If the Legislative Assembly be in session he shall transmit to the house in which the bill originated a copy of the item or items or part or parts thereof disapproved together with his objection thereto, and the items or parts objected to shall be separately reconsidered, and each item or part shall then take the same course as is prescribed for the passage of bills over the executive veto.

SEC. 81. Any governor of this state who asks, receives or agrees to receive any bribe upon any understanding that his official opinion, judgment or action shall be influenced thereby, or who gives or offers, or promises his official influence in consideration that any member of the Legislative Assembly shall give his official vote or influence on any particular side of any question or matter upon which he may be required to act in his official capacity, or who menaces any member by the threatened use of his veto power, or who offers or promises any member that he, the said Governor, will appoint any particular person or persons to any office created or thereafter to be created, in consideration that any member shall give his official vote or influence on any matter pending or thereafter to be introduced into either house of said Legislative Assembly, or who threatens any member that he, the said Governor, will remove any person or persons from office or

position with intent to in any manner influence the official action of said member, shall be punished in the manner now or that may hereafter be provided by law, and upon conviction thereof shall forfeit all right to hold or exercise any office of trust or honor in this state.

[Recommend that the word "to" after the word "intent" be stricken out and that the same word be inserted after the word "manner." ]

SEC. 82. There shall be chosen by the qualified electors of the state at the times and places of choosing members of the Legislative Assembly, a Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of Insurance, three Commissioners of Railroads, Attorney General and Commissioner of Agriculture and Labor, who shall have attained the age of twenty-five years and shall have the qualifications of state electors. They shall severally hold their offices at the seat of government, for the term of two years and until their successors are elected and duly qualified, but no person shall be eligible to the office of treasurer for more than two consecutive terms.

[Recommend that this section provide that the officers should be citizens of the United States.]

SEC. 83. The powers and duties of the Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of Insurance, Commissioners of Railroads, Attorney General and Commissioner of Agriculture and Labor, shall be as prescribed by law.

SEC. 84. Until otherwise provided by law, the Governor shall receive an annual salary of three thousand dollars; the Lieutenant-Governor shall receive an annual salary of one thousand dollars; the Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of Insurance, Commissioners of Railroads, and Attorney General shall each receive an annual salary of two thousand dollars; the salary of the Commissioner of Agriculture and Labor shall be as prescribed by law, but the salaries of any of the said officers shall not be increased or diminished during the period for which they shall have been elected, and all fees and profits arising from any of the said offices shall be covered into the state treasury.

#### ARTICLE IV.

##### JUDICIAL DEPARTMENT.

SEC. 85. The judicial power of the State of North Dakota shall be vested in a supreme court, district courts, county courts, justices of the peace, and in such other courts as may be created by law for cities, incorporated towns and villages.

SEC. 86. The supreme court, except as otherwise provided in this Constitution, shall have appellate jurisdiction only, which

shall be coextensive with the state and shall have a general superintending control over all inferior courts under such regulations and limitations as may be prescribed by law.

SEC. 87. It shall have power to issue writs of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari*, injunction, and such other original and remedial writs as may be necessary to the proper exercise of its jurisdiction, and shall have authority to hear and determine the same, *Provided, however*, That no jury trials shall be allowed in said supreme court, but in proper cases questions of fact may be sent by said court to a district court for trial.

SEC. 88. Until otherwise provided by law three terms of the supreme court shall be held each year, one at the seat of government, one at Fargo and one at Grand Forks.

[Recommend that after the word Fargo there be inserted the words "in the county of Cass," and after the words Grand Forks, there be inserted the words, "in the county of Grand Forks."]

SEC. 89. The supreme court shall consist of three judges, a majority of whom shall be necessary to form a quorum or pronounce a decision, but one or more of said judges may adjourn the court from day to day or to a day certain.

SEC. 90. The judges of the supreme court shall be elected by the qualified electors of the state at large, and except as may be otherwise provided herein for the first election for judges under this Constitution, said judges shall be elected at general elections.

SEC. 91. The term of office of the judges of the supreme court, except as in this article otherwise provided, shall be six years, and shall hold their offices until their successors are duly qualified.

[Recommended that after the word "and" the word "they" be inserted.]

SEC. 92. The judges of the supreme court shall, immediately after the first election under this Constitution, be classified by lot so that one shall hold his office for the term of three years, one for the term of five years, and one for the term of seven years from the first Monday in December, A. D. 1889. The lot shall be drawn by the judges who shall for that purpose assemble at the seat of government, and they shall cause the result thereof to be certified to the Secretary of the territory and filed in his office, unless the Secretary of State of North Dakota shall have entered upon the duties of his office in which event said certification shall be filed therein. The judge having the shortest term to serve, not holding his office by election or appointment to fill a vacancy, shall be chief justice and shall preside at all terms of the supreme court and in case of his absence the judge having in like manner the next shortest term to serve shall preside in his stead.

SEC. 93. There shall be a clerk and also a reporter of the supreme court, who shall be appointed by the judges thereof, and who shall hold their offices during the pleasure of said judges, and

whose duties and emoluments shall be prescribed by law and by the rules of the supreme court not inconsistent with law. The Legislative Assembly shall make provisions for the publication and distribution of the decisions of the supreme court and for the sale of the published volumes thereof.

SEC. 94. No person shall be eligible to the office of judge of the supreme court unless he be learned in the law, be at least thirty years of age and a citizen of the United States, nor unless he shall have resided in this state or the Territory of Dakota three years next preceding his election.

SEC. 95. Whenever the population of the State of North Dakota shall equal six hundred thousand the Legislative Assembly shall have the power to increase the number of the judges of the supreme court to five, in which event a majority of said court, as thus increased, shall constitute a quorum.

SEC. 96. No duties shall be imposed by law upon the supreme court or any of the judges thereof, except such as are judicial, nor shall any of the judges thereof exercise any power of appointment except as herein provided.

SEC. 97. The style of all process shall be "The State of North Dakota." All prosecutions shall be carried on in the name and by the authority of the State of North Dakota, and conclude "against the peace and dignity of the same."

[Recommend that the word "same" in the last line be stricken out and that there be inserted thereof the words "State of North Dakota"]

SEC. 98. Any vacancy happening by death, resignation or otherwise in the office of the judge of the supreme court shall be filled by appointment, by the Governor, which appointment shall continue until the first general election thereafter, when said vacancy shall be filled by election.

SEC. 99. The judges of the supreme and district courts shall receive such compensation for their services as may be prescribed by law, which compensation shall not be increased or diminished during the term for which a judge shall have been elected.

SEC. 100. In case a judge of the supreme court shall be in any manner interested in a cause brought before said court, the remaining judges of said court shall call one of the district judges to sit with them on the hearing of said cause.

SEC. 101. When a judgment or decree is reversed or affirmed by the supreme court, every point fairly arising upon the record of the case shall be considered and decided, and the reasons therefor shall be concisely stated in writing, signed by the judges concurring, filed in the office of the clerk of the supreme court and preserved with a record of the case. Any judge dissenting therefrom may give the reasons of his dissent in writing over his signature.

SEC. 102. It shall be the duty of the court to prepare a syllabus of the points adjudicated in each case, which shall be concurred in by a majority of the judges thereof, and it shall be prefixed to the published reports of the case.

DISTRICT COURTS.

SEC. 103. The district court shall have original jurisdiction each within its territorial limits, except as otherwise provided in this Constitution, of all causes both at law and equity, and such appellate jurisdiction as may be conferred by law. They and the judges thereof shall also have jurisdiction and power to issue writs of habeas corpus, *quo warranto*, *certiorari*, injunction and other original and remedial writs, with authority to hear and determine the same.

SEC. 104. The state shall be divided into Six Judicial Districts, in each of which there shall be elected at general elections, by the electors thereof, one judge of the district court therein, whose term of office shall be four years from the first Monday in January succeeding his election and until his successor is duly qualified. This section shall not be construed as governing the first election of district judges under this Constitution.

SEC. 105. Until otherwise provided by law said districts shall be constituted as follows:

District No. One shall consist of the counties of Pembina, Cavalier, Walsh, Nelson and Grand Forks.

District No. Two shall consist of the counties of Ramsey, Towner, Benson, Pierce, Rolette, Bottineau, McHenry, Church, Renville, Ward, Stevens, Mountraille, Garfield, Flannery and Buford.

District No. Three shall consist of the counties of Cass, Steele and Traill.

District No. Four shall consist of all of the counties of Richland, Ransom, Sargent, Dickey and McIntosh.

District No. Five shall consist of the counties of Logan, La-Moure, Stutsman, Barnes, Wells, Foster, Eddy and Griggs.

District No. Six shall consist of the counties of Burleigh, Emmons, Kidder, Sheridan, McLean, Morton, Oliver, Mercer, Williams, Stark, Hettinger, Bowman, Billings, McKenzie, Dunn, Wallace and Allred, and that portion of the Sioux Indian Reservation lying north of the Seventh Standard parallel.

SEC. 106. The Legislative Assembly may whenever two-thirds of the members of each house shall concur therein, but not oftener than once in four years, increase the number of said judicial districts and the judges thereof; such districts shall be formed from compact territory and bounded by county lines, but such increase or change in the boundaries of the districts shall not work there moval of any judge from his office during the term for which he may have been elected or appointed.



SEC. 107. No person shall be eligible to the office of district judge, unless he be learned in the law, be at least twenty-five years old, and a citizen of the United States, nor unless he shall have resided within the State or Territory of Dakota at least two years next preceding his election, nor unless he shall at the time of his election be an elector within the Judicial District for which he is elected.

SEC. 108. There shall be a Clerk of the District Court in each organized county in which a court is holden who shall be elected by the qualified electors of the county, and shall hold his office for the same term as other county officers. He shall receive such compensation for his services as may be prescribed by law.

SEC. 109. Writs of error and appeals may be allowed from the decisions of the district courts to the Supreme Court under such regulations as may be prescribed by law.

#### COUNTY COURTS.

SEC. 110. There shall be established in each county a county court, which shall be a court of record open at all times and holden by one judge, elected by the electors of the county, and whose term of office shall be two years.

SEC. 111. The County Court shall have jurisdiction in probate and testamentary matters, the appointment of administrators and guardians, the settlement of the accounts of executors, administrators and guardians, the sale of lands by executors, administrators, and guardians, and such other probate jurisdiction as may be conferred by law. Provided that whenever the voters of any county having a population of two thousand or over shall decide by a majority vote that they desire the jurisdiction of said court increased above that limited by this constitution, then said County Courts shall have concurrent jurisdiction with the District Courts in all civil actions where the amount in controversy does not exceed one thousand dollars, and in all criminal actions below the grade of felony, and in case it is decided by the voters of any county to so increase the jurisdiction of said county court, then the justices of the peace of such county shall have no exclusive jurisdiction, and the jurisdiction in cases of misdemeanors arising under state laws which may have been conferred upon police magistrates, shall cease. The qualifications of the judge of the County Court in counties where the jurisdiction of said court shall have been increased shall be the same as those of the district judge except he shall be a resident of the county at the time of his election, and said county judge shall receive such salary for his services as may be provided by law. In case the voters of any county decide to increase the jurisdiction of said county courts, then such jurisdiction as thus increased shall remain until otherwise provided by law.

[Recommend that all after the words "County Court" in the

proviso, commencing with the words "then the justices etc," down to the words "the jurisdiction in cases etc." be stricken out.]

#### JUSTICES OF THE PEACE.

SEC. 112. The Legislative Assembly shall provide by law for the election of justices of the peace in each organized county within the state. But the number of said justices to be elected in each organized county shall be limited by law to such a number as shall be necessary for the proper administration of justice. The justices of the peace herein provided for shall have concurrent jurisdiction with the district court in all civil actions when the amount in controversy, exclusive of costs, does not exceed two hundred dollars. And in counties where no county court with criminal jurisdiction exists they shall have such jurisdiction to hear and determine cases of misdemeanor as may be provided by law, but in no case shall said justices of the peace have jurisdiction when the boundaries of or title to real estate shall come in question. The Legislative Assembly shall have power to abolish the office of justice of the peace and confer that jurisdiction upon judges of county courts, or elsewhere.

#### POLICE MAGISTRATES.

SEC. 113. The Legislative Assembly shall provide by law for the election of police magistrates in cities, incorporated towns, and villages, who in addition to their jurisdiction of all cases arising under the ordinances of said cities, towns and villages, shall be ex-officio justices of the peace of the county in which said cities, towns and villages may be located. And the Legislative Assembly may confer upon said police magistrates the jurisdiction to hear, try and determine all cases of misdemeanors, and the prosecutions therein shall be by information.

SEC. 114. Appeals shall lie from the county court, final decisions of justices of the peace, and police magistrates in such cases and pursuant to such regulations as may be prescribed by law.

#### MISCELLANEOUS.

SEC. 115. The time of holding courts in the several counties of a district shall be as provided by law, but at least two terms of the district court shall be held annually in each organized county, and the Legislative Assembly shall make provision for attaching unorganized counties or territories to organized counties for judicial purposes.

SEC. 116. Judges of the district courts may hold court in other districts than their own under such regulations as shall be prescribed by law.

SEC. 117. No judge of the supreme or district court shall act as attorney or counsellor at law.

SEC. 118. Until the Legislature shall provide by law for fixing the terms of courts the judges of the supreme and district courts shall fix the terms thereof.

SEC. 119. No judge of the supreme or district court shall be elected or appointed to any other than judicial offices or be eligible thereto during the term for which he was elected or appointed such judge. All votes or appointments for either of them for any elective or appointive office except that of judge of the supreme court or district court, given by the Legislative Assembly or the people, shall be void.

SEC. 120. Tribunals of conciliation may be established with such powers and duties as shall be prescribed by law, or the powers and duties of such may be conferred upon other courts of justice; but such tribunals or other courts when sitting as such, shall have no power to render judgment to be obligatory on the parties, unless they voluntarily submit their matters of difference and agree to abide the judgment of such tribunals or courts.

## ARTICLE V.

### ELECTIVE FRANCHISE.

SEC. 121. Every male person of the age of twenty-one years or upwards belonging to either of the following classes, who shall have resided in the state one year, in the county six months and in the precinct ninety days next preceding any election, shall be deemed a qualified elector at such election:

First: Citizens of the United States.

Second: Persons of foreign birth who shall have declared their intention to become citizens, one year and not more than six years, prior to such election, conformably to the naturalization laws of the United States.

Third: Civilized persons of Indian descent who shall have severed their tribal relations two years next preceding such election.

SEC. 122. The Legislative Assembly shall be empowered to make further extensions of suffrage hereafter, at its discretion to all citizens of mature age and sound mind, not convicted of crimes, without regard to sex, [recommend that all after the word "sex" be stricken out and the following inserted: "But no law extending or restricting the right of suffrage shall be enforced until adopted by a majority of the electors of the state voting at a general election."] but shall not extend or restrict the right of suffrage without first submitting the question to the voters, to be by them ratified by a majority vote.

SEC. 123. Electors shall in all cases except treason, felony, breach of the peace or illegal voting, be privileged from arrest on the days of election during their attendance at, going to and re-

turning from such election, and no elector shall be obliged to perform military duty on the day of election, except in time of war or public danger.

SEC. 124. The general elections of the state shall be bi-ennially, and shall be held on the first Tuesday after the first Monday in November. *Provided*, That the first general election under this Constitution shall be held on the first Tuesday after the first Monday in November, A. D. 1890.

SEC. 125. No elector shall be deemed to have lost his residence in this state by reason of his absence on business of the United States or of this state, or in the military or naval service of the United States.

SEC. 126. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this state in consequence of his being stationed therein.

SEC. 127. No person under guardianship, non compos mentis or insane, shall be qualified to vote at any election, nor shall any person convicted of treason or felony, unless restored to civil rights.

[Recommend that after the word "person" in the first line there be inserted the words "who is."]

SEC. 128. Any woman having the qualifications enumerated in section 1 of this article as to age, residence and citizenship, and including those now qualified by the laws of the territory, may vote at any election held solely for school purposes.

SEC. 129. All elections by the people shall be by secret ballot, subject to such regulations as shall be provided by law.

## ARTICLE VI.

### MUNICIPAL CORPORATIONS.

SEC. 130. The Legislative Assembly shall provide by general law for the organization of municipal corporations, restricting their powers as to levying taxes and assessments, borrowing money and contracting debts, and money raised by taxation, loan or assessment for one purpose shall not be diverted to any other purpose except by authority of law.

SEC. 131. No city, town, village or other municipal corporation of this state shall ever become the subscriber to the capital stock or owner of such stock, or any portion or interest therein, of any railroad, private corporation or association.

[Recommend that this section be stricken out, so the same is fully covered by section 401, the article on public debt and public works.]

SEC. 132. No municipal corporation shall ever become indebted in any manner or for any purpose in any amount in the aggregate including existing indebtedness, exceeding four per

centum upon the value of the taxable property within such corporation, to be ascertained from the last assessment for state and county taxes previous to the incurring of the indebtedness, and all bonds or obligations in excess of such amount, except as hereinafter provided, given by such corporation, shall be void; provided, however, that any incorporated city may become indebted in any amount not exceeding four per centum on the value of such taxable property without regard to the existing indebtedness of such city, for the purpose of constructing or purchasing water works for furnishing a supply of water to the citizens of such city, or for the purpose of constructing sewers, and for no other purpose whatever.

[Recommend this section be stricken out and a proviso incorporated with section two (2) of the article on Public Debt and Public Works.]

## ARTICLE VII.

### CORPORATIONS OTHER THAN MUNICIPAL.

SEC. 133. No charter of incorporation shall be granted, changed or amended by special law, except in the case of such municipal, charitable, educational, penal or reformatory corporations as may be under the control of the state; but the Legislative Assembly shall provide by general laws for the organization of all corporations hereafter to be created, and any such law, so passed, shall be subject to future repeal or alteration.

SEC. 134. All existing charters or grants of special or exclusive privileges, under which a bona fide organization shall not have taken place and business been commenced in good faith at the time this Constitution takes effect, shall thereafter have no validity.

SEC. 135. The Legislative Assembly shall not remit the forfeiture of the charter to any corporation now existing, nor alter or amend the same, nor pass any other general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this constitution.

SEC. 136. The exercise of the right of eminent domain shall never be abridged, or so construed as to prevent the Legislative Assembly from taking the property and franchises of incorporated companies and subjecting them to public use, the same as the property of individuals; and the exercise of the police power of this state shall never be abridged, or so construed as to permit corporations to conduct their business in such a manner as to infringe the equal rights of individuals or the general well-being of the state.

SEC. 137. In all elections for directors or managers of a corporation, each member or share-holder may cast the whole number

of his votes for one candidate, or distribute them upon two or more candidates, as he may prefer.

SEC. 138. No foreign corporation shall do business in this state without having one or more places of business and an authorized agent or agents in the same, upon whom process may be served.

SEC. 139. No corporation shall engage in any business other than that expressly authorized in its charter.

SEC. 140. No corporation shall issue stock or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void.

The stock and indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock first obtained at a meeting to be held after sixty days' notice given in pursuance of law.

SEC. 141. No law shall be passed by the Legislative Assembly granting the right to construct and operate a street railroad, telegraph, telephone or electric light plant within any city, town or incorporated village, without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied for such purposes.

SEC. 142. Every railroad corporation organized and doing business in this state, under the laws or authority thereof, shall have and maintain a public office or place in the state for the transaction of its business, where transfers of its stock shall be made and in which shall be kept for public inspection, books in which shall be recorded the amount of capital stock subscribed, and by whom, the names of the owners of its stock and the amount owned by them respectively; the amount of stock paid in and by whom, and the transfers of said stock; the amounts of its assets and liabilities and the names and place of residence of its officers. The directors of every railroad corporation shall annually make a report, under oath, to the auditor of public accounts, or some officer or officers to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law, and the Legislative Assembly shall pass laws enforcing by suitable penalties the provisions of this section. Providing the provisions of this section shall not be construed as to apply to foreign corporations.

SEC. 143. No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given at least sixty days to all stockholders, in such manner as may be provided by law. Any attempt to evade the provisions of this section, by any railroad corporation, by lease or otherwise, shall work a forfeiture of its charter.

SEC. 144. Railways heretofore constructed or that may hereafter be constructed in this state are hereby declared public highways, and all railroad, sleeping car, telegraph, telephone and transportation companies of passengers, intelligence and freight, are declared to be common carriers and subject to legislative control; and the Legislative Assembly shall have power to enact laws regulating and controlling the rates of charges for the transportation of passengers and freight, as such common carriers from one point to another in this state.

[Recommend that the word "intelligence" be inserted after the word "passengers" in the next to the last line.]

SEC. 145. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points within this state, and to connect at the state line with the railroads of other states. Every railroad company shall have the right with its road to intersect, connect with or cross any other railroad; and shall receive and transport each other's passengers, tonnage and cars, loaded or empty, without delay or discrimination.

SEC. 146. Municipal and corporations and individuals invested with the privilege of taking private property for public use, shall make just compensation for property taken, injured or destroyed by the construction or enlargement of their works, highways or improvements, which compensation shall be paid or secured before such taking, injury or destruction. The Legislative Assembly is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages against any such corporations or individuals, made by viewers or otherwise; and the amount of such damage in all cases of appeal shall, on demand of either party, be determined by a jury as in other civil cases.

[Recommend that section be stricken out as the ground is covered by section 14 of the Bill of Rights.]

SEC. 147. The term "corporation," as used in this article, shall not be understood as embracing municipalities or political divisions of the State unless otherwise expressly stated, but it shall be held and construed to include all associations and joint stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships.

SEC. 148. If a general banking law be enacted, it shall provide for the registry and countersigning by an officer of the state, of all notes or bills designed for circulation, and that ample security to the full amount thereof shall be deposited with the state treasurer for the redemption of such notes or bills.

SEC. 149. Any combination between individuals, corporations, associations, or either having for its object or effect the controlling of the price of any product of the soil or any article of manufacture or commerce, or the cost of exchange, is prohibited and hereby

declared unlawful and against public policy; and that any and all franchises heretofore granted or extended, or that may hereafter be granted or extended in this state, whenever the owner or owners thereof violate this article shall be deemed annulled and become void, and their property within the state escheated.

## ARTICLE VIII.

### EDUCATION.

SEC. 150. A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people being necessary in order to insure the continuance of that government and the prosperity and happiness of the people, the legislature shall make provision for the establishment and maintenance of a system of public schools which shall be open to all children of the state of North Dakota and free from sectarian control. This legislative requirement shall be irrevocable without the consent of the United States and the people of North Dakota.

SEC. 151. The Legislative Assembly shall provide at their first session, after the adoption of this Constitution, for a uniform system of free public schools throughout the state; beginning with the primary and extending through all grades up to and including the normal and collegiate course.

SEC. 152. In all schools instruction shall be given as far as practicable in those branches of knowledge that tend to impress upon the mind the vital importance of truthfulness, temperance, purity, public spirit, and respect for honest labor of every kind.

SEC. 153. A State Superintendent of Public Instruction shall be elected by the qualified electors of the state at each gubernatorial election after the adoption of this Constitution, whose qualifications, powers, duties and compensation shall be prescribed by law.

[Recommend that section 4 be stricken out as its provisions are included in the executive department.]

SEC. 154. A Superintendent of Schools for each county shall be elected every two years, whose qualifications, duties, powers and compensation shall be fixed by law.

SEC. 155. The Legislative Assembly shall take such other steps as may be necessary to prevent illiteracy, secure a reasonable degree of uniformity in course of study, and to promote industrial, scientific and agricultural improvement.

SEC. 156. All colleges, universities and other educational institutions, for the support of which lands have been granted to this state, or which are supported by a public tax, shall remain under the absolute and exclusive control of the state. No money raised for the support of the public schools of the state shall be appropriated to or used for the support of any sectarian school.



## ARTICLE IX.

## SCHOOL AND PUBLIC LANDS.

SEC. 157. All proceeds of the public lands that have heretofore been, or may hereafter be granted by the United States for the support of the common schools in this state; all such per centum as may be granted by the United States on the sale of public lands; the proceeds or property that shall fall to the state by escheat; the proceeds of all gifts and donations to the state for common schools, or not otherwise appropriated by the terms of the gift, and all other property otherwise acquired for common schools, shall be and remain a perpetual fund for the maintenance of the common schools of the state. It shall be deemed a trust fund, the principal of which shall forever remain inviolate and may be increased but never diminished. The state shall make good all losses thereof.

SEC. 158. The interest and income of this fund together with the net proceeds of all fines for violation of state laws, and all other sums which may be added thereto by law, shall be faithfully used and applied each year for the benefit of the common schools of the state, and shall be for this purpose apportioned among and between all the several common school corporations of the state in proportion to the number of children in each of school age, as may be fixed by law; and no part of the fund shall ever be diverted even temporarily from this purpose or used for any other purpose whatever than the maintenance of common schools for the equal benefit of all the people of the state; *Provided, however,* That if any portion of the interest or income aforesaid be not expended during any year, said portion shall be added to and become a part of the school fund.

SEC. 159. After one year from the assembling of the First Legislative Assembly, the lands granted to the state from the United States for the support of the common schools, may be sold upon the following conditions and no other: No more than one-fourth of all such lands shall be sold within the first five years after the same become saleable by virtue of this section. No more than one-half of the remainder within ten years after the same become saleable as aforesaid. The residue may be sold as soon as the same becomes saleable. The Legislative Assembly shall provide for the sale of all school lands subject to the provisions of this Article.

SEC. 160. The Superintendent of Public Instruction, Governor, Attorney-General, Secretary of State and State Auditor, shall constitute a Board of Commissioners, which shall be denominated the "Board of University and School Lands," and subject to the provisions of this Article and any law that may be passed by the Legislative Assembly, and said board shall have control of the appraisement, sale, rental and disposal of all school and uni-

versity lands, and shall direct the investment of the funds arising therefrom in the hands of the State Treasurer, under the limitations in section 164 of this Article.

SEC. 161. The county superintendent of common schools, the chairman of the county board, and the county auditor shall constitute boards of appraisal and under the authority of the state board of university and school lands shall appraise all school lands within their respective counties which they may from time to time recommend for sale at their actual value under the prescribed terms and shall first select and designate for sale the most valuable lands.

SEC. 162. No land shall be sold for less than the appraised value and in no case for less than ten dollars per acre. The purchaser shall pay one-fifth of the price in cash, and the remaining four-fifths as follows: One-fifth in five years, one-fifth in ten years, one-fifth in fifteen years and one-fifth in twenty years, with interest at the rate of not less than six per centum payable annually in advance. All sales shall be held at the county seat of the county in which the land to be sold is situate and shall be at public auction and to the highest bidder, after sixty days advertisement of the same in a newspaper of general circulation in the vicinity of the lands to be sold, and one at the seat of the government. Such lands as shall not have been specially subdivided shall be offered in tracts of one quarter section, and those so subdivided in the smallest subdivisions. All lands designated for sale and not sold within two years after appraisal shall be reappraised before they are sold. No grant or patent for any such lands shall issue until payment is made for the same. *Provided*, That the lands contracted to be sold by the state, shall be subject to taxation from the date of such contract. In case the taxes assessed against any of said lands for any year remain unpaid until the first Monday in October of the following year, then and thereupon the contract of sale for such lands shall become null and void.

SEC. 163. All land, money or other property donated, granted or received from the United States or any other source for a University, School of Mines, Reform School, Agricultural College, Deaf and Dumb Asylum, Normal School or other educational or charitable institution or purpose. And the proceeds of all such lands and other property so received from any source, shall be and remain perpetual funds, the interest and income of which together with the rents of all such land as may remain unsold shall be inviolably appropriated and applied to the specific objects of the original grants or gifts. The principal of every such fund may be increased but shall never be diminished, and the interest and income only shall be used. Every such fund shall be deemed a trust fund held by the state, and the state shall make good all losses thereof.

SEC. 164. All lands mentioned in the preceding section shall be appraised and sold in the same manner and by the same limi-

tations and subject to all the conditions as to price and sale as provided above for the appraisal and sale of lands for the benefit of common schools; but a distinct and separate account shall be kept by the proper officers of each of said funds. *Provided*, That the limitations as to the time in which school land may be sold shall apply only to lands granted for the support of common schools.

SEC. 165. The Legislative Assembly shall have authority to provide by law for the leasing of lands granted to the state for educational and charitable purposes; but no such law shall authorize the leasing of said lands for a longer period than five years. Said land shall only be leased for pasturage and meadow purposes and at public auction after notice as heretofore provided in case of sale. *Provided* that all of said school lands now under cultivation may be leased for other than pasturage and meadow purposes until sold. All rents shall be paid in advance.

[ Recommend to add after the words "five years" the words "in quantities not exceeding one section to any one person or company." ]

SEC. 166. The moneys of the permanent school fund and other educational funds shall be invested only in bonds of school corporations within the state, bonds of the United States or bonds of the state of North Dakota or in first mortgages on farm lands in the state, not exceeding in amount one-third of the actual value of any subdivision on which the same may be loaned, such value to be determined by the board of appraisers of school lands.

SEC. 167. No law shall ever be passed by the Legislative Assembly granting to any person, corporation or association any privileges by reason of the occupation, cultivation or improvement of any public lands by said person, corporation or association subsequent to the survey thereof by the general government. No claim for the occupation, cultivation or improvement of any public lands shall ever be recognized, nor shall such occupation, cultivation or improvement of any public lands ever be used to diminish either directly or indirectly the purchase price of said lands.

SEC. 168. The Legislative Assembly shall have authority to provide by law for the sale or disposal of all public lands that have been heretofore, or may hereafter be granted by the United States to the state for purposes other than set forth and named in sections—and— of this article. And the Legislative Assembly shall provide for the appraisement, sale, rental and disposal of the same shall not be subject to the provisions and limitations of this article.

[ Recommend to strike out the word "shall provide" after the words "Legislative Assembly," in the last clause, and insert the word "in providing." ]

SEC. 169. The Legislature shall pass suitable laws for the safe keeping, transfer and disbursement of the state school funds; and

shall require all officers charged with the same or the safe keeping thereof to give ample bonds for all moneys and funds received by them, and if any of said officers shall convert to his own use in any manner or form, or shall loan with or without interest or shall deposit in his own name, or otherwise than in the name of the state of North Dakota or shall deposit in any banks or with any person or persons, or exchange for other funds or property any portion of the school funds aforesaid or purposely allow any portion of the same to remain in his hands uninvested except in the manner prescribed by law, every such act shall constitute an embezzlement of so much of the aforesaid school funds as shall be thus taken or loaned, or deposited, or exchanged, or withheld and shall be a felony; and any failure to pay over, produce or account for, the state school funds or any part of the same entrusted to any such officer, as by law required or demanded, shall be held and be taken to be prima facie evidence of such embezzlement.

## ARTICLE X.

### COUNTY AND TOWNSHIP ORGANIZATION.

SEC. 170. The several counties in the Territory of Dakota lying north of the Seventh Standard Parallel, as they now exist, are hereby declared to be counties of the State of North Dakota.

SEC. 171. The Legislative Assembly shall provide by general law for organizing new counties, locating the county seats thereof temporarily, and changing county lines; but no new county shall be organized nor shall any organized county be so reduced as to include an area of less than twenty-four congressional townships, and containing a population of less than one thousand *bona fide* inhabitants. And in the organization of new counties and in changing the lines of organized counties and boundaries of congressional townships and natural boundaries shall be observed as nearly as may be.

SEC. 172. All changes in the boundaries of organized counties before taking effect shall be submitted to the electors of the county or counties, to be effected thereby at a general election and be adopted by a majority of all the legal votes cast in each county at such election; and in case any portion of an organized county is stricken off and added to another, the county to which such portion is added shall assume and be holden for an equitable porportion of the indebtedness of the county so reduced as the part severed bears to the whole county from which it is severed.

[Recommend that all after the word "reduced" be stricken out.

SEC. 173. The Legislative Assembly shall provide by general law for changing county seats in organized counties, but it shall have no power to remove the county seat of any organized county.

SEC. 174. The Legislative Assembly shall provide by general law for township organization under which any county may organ-

ize whenever a majority of the legal voters of such county, voting at any election called for that purpose, shall so determine, and townships when organized shall be bounded as near as may be by congressional township lines, and natural boundaries; and upon a petition signed by not less than one fourth of the legal voters, as shown by the preceding election, of any county organized into civil townships, asking that the question of the establishment of a county board, to be composed of the chairmen of the several boards of township supervisors, be submitted to the electors of the county, it shall be the duty of the county board to submit the same at the next election thereafter, and if at such election a majority of such electors shall vote in favor of such proposition, then the county board of such county shall consist of such chairmen of the several boards of township supervisors, and of such others as may by law be provided for any incorporated city or village within such county.

[Recommend that the whole section be stricken out for the reason that it is ambiguous and confusing.]

SEC. 175. The Legislative Assembly shall provide by general law for such county, township and district officers as may be deemed necessary, and shall prescribe the duties and compensation of all county, township and district officers. *Provided*, That all county offices shall receive a fixed salary. For the purpose of providing for and regulating the compensation of county officers, the Legislative Assembly shall, by law, classify the several counties of the state according to population, and shall grade and fix the compensation of the officers within the respective classes according to the population thereof. Such law shall establish scales of fees to be charged and collected by such of the county officers as may be designated therein, for services to be performed by them respectively. All fees, perquisites and emoluments shall be paid into the county treasury.

[Recommend to strike out the words "all county, township and district officers" and insert in lieu thereof the words "the same." Also strike out all of the proviso.]

SEC. 176. All county, township and district officers shall be electors in the county, township, or district in which they are elected, except as otherwise provided in this Constitution.

SEC. 177. The Sheriff and Treasurer of any county shall not hold their respective offices for more than four years in succession.

## ARTICLE XI:

### REVENUE AND TAXATION.

SEC. 178. The Legislative Assembly shall provide for raising revenue sufficient to defray the expenses of the state for each year, not to exceed in any one year four (4) mills on the dollar of the assessed valuation of all taxable property in the state, to be ascer-

tained by the last assessment made for state and county purposes, and also a sufficient sum to pay the interest on the state debt.

SEC. 179. No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied.

SEC. 180. Laws shall be passed taxing by uniform rule all property according to its true value in money, but the property of the United States and the state, county and municipal corporations, both real and personal, shall be exempt from taxation, and the Legislative Assembly shall by a general law exempt from taxation property used exclusively for school, religious, cemetery or charitable purposes and personal property to any amount not exceeding in value two hundred dollars for each individual liable to taxation.

SEC. 181. Cultivated and uncultivated lands of the same quality and similarly situated, shall be assessed at the same value.

SEC. 182. The power of taxation shall never be surrendered or suspended by any grant or contract to which the state or any county or other municipal corporation shall be a party.

SEC. 183. All property, except as hereinafter in this section provided, shall be assessed in the county, city, township, town, village or district in the manner prescribed by law. The franchise, roadway, roadbed, rails and rolling stock of all railroads operated in this state shall be assessed by the state board of equalization at their actual value and the same shall be apportioned to the counties, cities, towns, townships and districts in which said roads are located, in proportion to the number of miles of railway laid in such counties, cities, towns, townships and districts; *Provided*, That for the purpose of assessment and taxation, such railroad shall not be valued at less than three thousand dollars per mile.

[Recommend that the words "in which it is situated" be inserted after the word "district" where it first occurs in the section.]

SEC. 184. The Legislative Assembly may provide for the levy, collection and disposition of an annual poll tax of not more than one dollar and fifty cents (\$1.50) on every male inhabitant of this state over twenty-one and under fifty years of age, except paupers, idiots, insane persons and Indians not taxed.

SEC. 185. The Legislative Assembly shall pass all laws necessary to carry out the provisions of this article.

## ARTICLE XII.

### PUBLIC DEBT AND PUBLIC WORKS.

SEC. 186. The state may, to meet casual deficits or failure in the revenue, or in case of extraordinary emergencies, contract debts,

but such debts shall never in the aggregate exceed the sum of two hundred thousand dollars, exclusive of what may be the debt of North Dakota at the time of the adoption of this Constitution. Every such debt shall be authorized by law for certain purposes to be definitely mentioned therein, and every such law shall provide for levying an annual tax sufficient to pay the interest semi-annually, and the principal within thirty years from the passage of such law, and shall specially appropriate the proceeds of such tax to the payment of said principal and interest, and such appropriation shall not be repealed nor the tax discontinued until such debt, both principal and interest, shall have been fully paid. No debt in excess of the limit named shall be incurred except for the purpose of repelling invasion, suppressing insurrection, defending the state in time of war, or to provide for public defense in case of threatened hostilities.

SEC. 187. The debt of any county, township, city, town, school district or any other subdivision, shall never exceed five (5) per centum upon the assessed value of the taxable property therein, except as otherwise specified in this Constitution; *Provided*, That any city may, by a two-thirds vote, increase such indebtedness three (3) per cent. beyond said five (5) per cent. limit. In estimating the indebtedness which a city, county or township or any subdivision thereof may incur, the amount of indebtedness contracted prior to the adoption of this Constitution shall be included.

[Recommend that the following be substituted for above section 1.]

SEC. 188. The debt of any county, township, town, school district or any other political subdivision, shall never exceed five (5) per centum upon the assessed value of the taxable property therein; *Provided*, that any incorporated city may, by a two-thirds vote, increase such indebtedness three (3) per centum on such assessed value beyond said five (5) per cent. limit. In estimating the indebtedness which a city, county, township, school district or any other political subdivision may incur, the entire amount of existing indebtedness, whether contracted prior or subsequent to the adoption of this constitution shall be included. *Provided*, further, that any incorporated city may become indebted in any amount not exceeding four (4) per centum on such assessed value without regard to the existing indebtedness of such city, for the purpose of constructing or purchasing water works for furnishing a supply of water to the inhabitants of such city, or for the purpose of constructing sewers, and for no other purpose whatever. All bonds or obligations in excess of the amount of indebtedness permitted by this constitution, given by any city, county, township, town, school district, or any other political subdivision, shall be void.

SEC. 189. Any city, county, town, school district or any other subdivision incurring indebtedness shall, at or before the time of

so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due, and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrevocable until such debt be paid.

[Recommend that the word "township" be inserted after the word "county" in the first line, also insert the word "any" before the word "other" in line 2, and the word "political" before the word "subdivision." ]

SEC. 190. Neither the state nor any county, township or municipality shall loan or give its credit or make donation to or in aid of any individual, association, or corporation except for necessary support of the poor, nor subscribe to or become the owner of the capital stock of any association or corporation, nor shall the state engage in any work of internal improvement unless authorized by a two-thirds vote of the people.

[Recommend that the word "municipality," be stricken out and insert after the word "county" in the first line the word "city," and after the word "township" insert the words "towns, school districts or any other political subdivision." ]

SEC. 191. No money shall be paid out of the state treasury except upon appropriation by law and on warrant drawn by the proper officer and no bills, claims, accounts or demands against the state, or any county or other subdivision, shall be audited, allowed or paid until a full itemized statement in writing shall be filed with the officer or officers, whose duty it may be to audit the same.

[Recommend to insert the word "political" before the word "subdivision." ]

SEC. 192. No bond or evidence of indebtedness of the state shall be valid unless the same shall have indorsed thereon a certificate, signed by the Auditor and Secretary of State showing that the bond or evidence of debt is issued pursuant to and falls within the debt limit. No bond or evidence of debt of any county, or bond of any township or other subdivision of a county shall be valid unless the same have been endorsed thereon a certificate signed by the county auditor, or other officer authorized by law to sign such certificate, stating that said bond, or evidence of debt, is issued pursuant to law and is within the debt limit.

[Recommended to strike out the word "falls" and insert the word "is," and insert the word "political" before the word "subdivision," and after the word "subdivision" strike out the words, "of a county." ]

### ARTICLE XIII.

#### MILITIA.

SEC. 193. The militia of this state shall consist of all able-bodied male persons residing with the state, between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States or of this state. Persons whose



religious tenets or conscientious scruples forbid them to bear arms shall not be compelled to do so in times of peace, but shall pay an equivalent for a personal service.

SEC. 194. The militia shall be enrolled, organized, uniformed, armed and disciplined in such a manner as shall be provided by law, not incompatible with the Constitution or laws of the United States.

SEC. 195. The Legislative Assembly shall provided by law for the establishment of volunteer organizations of the several arms of the service, which shall be classed as active militia.

SEC. 196. All militia officers shall be appointed or elected in such a manner as the Legislative Assembly shall provide.

SEC. 197. The commissioned officers of the militia shall be commissioned by the Governor, and no commissioned officer shall be removed from office except by sentence of court martial, pursuant to law.

SEC. 198. The militia forces shall in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at musters, parades and elections of officers, and in going to and returning from the same.

#### ARTICLE XIV.

##### IMPEACHMENT AND REMOVAL FROM OFFICE.

SEC. 199. The House of Representatives shall have the sole power of impeachment. The concurrence of a majority of all members elected shall be necessary to an impeachment.

SEC. 200. All impeachments shall be tried by the senate. When sitting for that purposes the senators shall be upon oath or affirmation to do justice according to the law and evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. When the Governor or Lieutenant Governor is on trial, the presiding judge of the supreme court shall preside.

SEC. 201. The Governor and other state and judicial officers, except county judges, justices of the peace and police magistrates, shall be liable to impeachment for habitual drunkenness, crimes, corrupt conduct, or malfeasance or misdemeanor in office, but judgment in such cases shall not extend further than removal from office and disqualification to hold any office of trust, or profit under the state. The person accused, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

SEC. 202. All officers not liable to impeachment shall be subject to removal for misconduct, malfeasance, crime or misdemeanor in office, or for habitual drunkenness or gross incompetency in such manner as may be provided by law.

SEC. 203. No officer shall exercise the duties of his office after he shall have been impeached and before his acquittal.

SEC. 204. On trial of impeachment against the Governor, the Lieutenant Governor shall not act as a member of the court.

SEC. 205. No person shall be tried on impeachment before he shall have been served with a copy thereof, at least twenty days previous to the day set for trial.

SEC. 206. No person shall be liable to impeachment twice for the same offense.

## ARTICLE XV.

### FUTURE AMENDMENTS.

Any amendment or amendments to this Constitution may be proposed in either House of the Legislative Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment shall be entered on the journal of the house with the yeas and nays taken thereon, and referred to the Legislative Assembly to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice, and if in the Legislative Assembly so next chosen as aforesaid such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the Legislative Assembly to submit such proposed amendment or amendments to the people in such manner and at such time as the Legislative Assembly shall provide; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the Legislative Assembly voting thereon, such amendment or amendments shall become a part of the Constitution of this state. If two or more amendments shall be submitted at the same time they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

## ARTICLE XVI.

### COMPACT WITH THE UNITED STATES.

The following article shall be irrevocable without the consent of the United States and the people of this state.

SEC. 207. First. Perfect toleration of religious sentiment shall be secured, and no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship.

Second. The people inhabiting this state do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian

or Indian tribes, and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and that said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States residing without this state shall never be taxed at a higher rate than the lands belonging to residents of this state; that no taxes shall be imposed by this state on lands or property therein, belonging to, or which may hereafter be purchased by, the United States, or reserved for its use. But nothing in this article shall preclude this state from taxing as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person, a title thereto, by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any acts of congress containing a provision exempting the lands thus granted from taxation, which last mentioned lands shall be exempt from taxation so long, and to such an extent, as is, or may be provided in the act of congress granting the same; that the state of North Dakota hereby assumes and agrees to pay of the indebtedness of the Territory of Dakota, the sum mentioned in article — of this constitution.

[Recommend that all after the words, "granting the same," be stricken out and the article agreed upon by the joint commission be inserted as sections 208 and 209.]

#### TERRITORIAL DEBTS AND LIABILITIES.

SEC. 208. In order that payment of the debts and liabilities contracted or incurred by and in behalf of the Territory of Dakota may be justly and equitably provided for and made, and in pursuance of the requirements of an act of congress approved February 22, 1889, entitled "An act to provide for the division of Dakota into two states and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments and to be admitted into the Union on an equal footing with the original states, and to make donations of public lands to such states," the states of North Dakota and South Dakota, by proceedings of a joint commission, duly appointed under said act, the sessions whereof were held at Bismarck in said State of North Dakota, from July 16, 1889, to July 31, 1889, inclusive, have agreed to the following adjustment of the amounts of the debts and liabilities of the Territory of Dakota which shall be assumed and paid by each of the States of North Dakota and South Dakota, respectively, to-wit:

1. This agreement shall take effect and be in force from and after the admission into the Union, as one of the United States of America, of either the State of North Dakota or the State of South Dakota.

2. The words "State of North Dakota" wherever used in this

agreement, shall be taken to mean the Territory of North Dakota in case the State of South Dakota shall be admitted into the Union prior to the admission into the Union of the State of North Dakota; and the words "State of South Dakota," wherever used in this agreement, shall be taken to mean the Territory of South Dakota in case the State of North Dakota shall be admitted into the Union prior to the admission into the Union of the State of South Dakota.

The said State of North Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of North Dakota, and shall pay all warrants issued under and by virtue of that certain Act of the Legislative Assembly of the Territory of Dakota, approved March 8, 1889, entitled "An Act to provide for the refunding of outstanding warrants drawn on the Capitol Building Fund."

The said State of South Dakota shall assume and pay all bonds issued by the Territory or Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of South Dakota.

That is to say: The State of North Dakota shall assume and pay the following bonds and indebtedness, to-wit:

Bonds issued on account of the Hospital for Insane at Jamestown, North Dakota, the face aggregate of which is \$266,000; also bonds issued on account of the North Dakota University at Grand Forks, North Dakota, the face aggregate of which is \$96,700; also, bonds issued on account of the Penitentiary at Bismarck, North Dakota, the face aggregate of which is \$93,600; also, refunding Capitol Building warrants dated April 1, 1889, \$83,507.46.

And the State of South Dakota shall assume and pay the following bonds and indebtedness, to-wit:

Bonds issued on account of the Hospital for the Insane at Yankton, South Dakota, the face aggregate of which is \$210,000; also, bonds issued on account of the School for Deaf Mutes, at Sioux Falls, South Dakota, the face aggregate of which is \$51,000; also, bonds issued on account of the University at Vermillion, South Dakota, the face aggregate of which is \$75,000; also, bonds issued on account of the Penitentiary at Sioux Falls, South Dakota, the face aggregate of which is \$94,300; also, bonds issued on account of the Agricultural College at Brookings, South Dakota, the face aggregate of which is \$97,500; also, bonds issued on account of the Normal School at Madison, South Dakota, the face aggregate of which is \$49,400; also, bonds issued on account of the School of Mines at Rapid City, South Dakota, the face aggregate of which is \$33,000; also, bonds issued on account of the Reform School at Plankinton, South Dakota, the face aggregate of which is \$30,000; also, bonds issued on account of the

Normal School at Spearfish, South Dakota, the face aggregate of which is \$25,000; also bonds issued on account of the Soldiers' Home at Hot Springs, South Dakota, the face aggregate of which is \$45,000.

The States of North Dakota and South Dakota shall pay one-half each of all liabilities now existing or hereafter and prior to the taking effect of this agreement incurred, except those heretofore or hereafter incurred on account of public institutions, grounds or buildings, except as otherwise herein specifically provided.

The State of South Dakota shall pay to the State of North Dakota \$46,500, on account of the excess of Territorial appropriations for the permanent improvement of territorial institutions which under this agreement will go to South Dakota, and in full of the undivided one-half interest of North Dakota in the territorial library, and in full settlement of unbalanced accounts, and of all claims against the territory, of whatever nature, legal or equitable, arising out of the alleged erroneous or unlawful taxation of Northern Pacific Railroad lands, and the payment of said amount shall discharge and exempt the State of South Dakota from all liability for or on account of the several matters hereinbefore referred to; nor shall either state be called upon to pay or answer to any portion of liability hereafter arising or accruing on account of transactions heretofore had, which liability would be a liability of the Territory of Dakota had such territory remained in existence, and which liability shall grow out of matters connected with any public institutions, grounds or buildings of the territory situated or located within the boundaries of the other state.

A final adjustment of accounts shall be made upon the following basis: North Dakota shall be charged with all sums paid on account of the public institutions, grounds or buildings located within its boundaries on account of the current appropriations since March 9, 1889, and South Dakota shall be charged with all sums paid on account of public institutions, grounds or buildings located within its boundaries on the same account and during the same time. Each state shall be charged with one-half of all other expenses of the territorial government during the same time. All moneys paid into the treasury during the period from March 8, 1889, to the time of taking effect of this agreement by any county, municipality or person within the limits of the proposed state of North Dakota, shall be credited to the State of North Dakota; and all sums paid into said treasury within the same time by any county, municipality or person within the limits of the proposed State of South Dakota shall be credited to the State of South Dakota; except that any and all taxes on gross earnings paid into said treasury by railroad corporations, since the 8th day of March, 1889, based upon earnings of years prior to 1888, under and by virtue of the act of the Legislative Assembly of the Territory of Dakota, approved March 7, 1889, and entitled

“An Act providing for the levy and collection of taxes upon property of railroad companies in this Territory,” being Chapter 107 of the Session Laws of 1889, (that is, the part of such sum going to the Territory) shall be equally divided between the States of North Dakota and South Dakota; and all taxes heretofore or hereafter paid into the said treasury under and by virtue of the act last mentioned, based on the gross earnings of the year 1888, shall be distributed as already provided by law, except that so much thereof as goes to the territorial treasury shall be divided as follows: North Dakota shall have so much thereof as shall be or has been paid by railroads within the limits of the proposed State of North Dakota, and South Dakota so much thereof as shall be or has been paid by railroads within the limits of the proposed State of South Dakota; each state shall be credited also with all balances of appropriations made by the Seventeenth Legislative Assembly of the Territory of Dakota for the account of the public institutions, grounds or buildings situated within its limits, remaining unexpended on March 8, 1889. If there shall be any indebtedness except the indebtedness represented by the bonds and refunding warrants hereinbefore mentioned, each state shall at the time of such final adjustment of accounts, assume its share of said indebtedness as determined by the amount paid on account of the public institutions, grounds or buildings of such state in excess of the receipts from counties, municipalities, railroad corporations or persons within the limits of said state, as provided in this article; and if there should be a surplus at the time of such final adjustment, each state shall be entitled to the amounts received from counties, municipalities, railroad corporations or persons within its limits over and above the amount charged it.

SEC. 209. And the State of North Dakota hereby obligates itself to pay such part of the debts and liabilities of the Territory of Dakota as is declared by the foregoing agreement to be its proportion thereof, the same as if such proportion had been originally created by said State of North Dakota as its own debt or liability.

SEC. 210. Jurisdiction is ceded to the United States over the military reservations of Fort Abraham Lincoln, Fort Buford, Fort Pembina and Fort Totten, heretofore declared by the President of the United States; *Provided*, Legal process, civil and criminal, of this state, shall extend over such reservations in all cases in which exclusive jurisdiction is not vested in the United States, or of crimes not committed within the limits of such reservations.

SEC. 211. The State of North Dakota hereby accepts the several grants of land granted by the United States to the State of North Dakota by an act of congress entitled “An act to provide for the division of Dakota into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington to form Constitutions and state governments, and to be admitted

into the Union on equal footing with the original states, and to make donations of public lands to such states," under the conditions and limitations therein mentioned; reserving the right however to apply to congress for modifications of said conditions and limitations in case of necessity.

## ARTICLE XVII.

### MISCELLANEOUS.

SEC. 212. The name of this state shall be "North Dakota." The State of North Dakota shall consist of all the territory included within the following boundaries, to-wit: Commencing at a point in the main channel of the Red River of the north, where the forty-ninth degree of north latitude crosses the same; from thence south up the main channel of the same and along the boundary line of the State of Minnesota to a point where the Seventh Standard parallel intersects the same; thence west along said Seventh Standard parallel to a point where it intersects the twenty-seventh meridian of longitude west from Washington; thence north on said meridian to a point where it intersects the forty-ninth degree of north latitude; thence east along said line to place of beginning.

[Recommend to strike out the word "from;" also insert the words "produced due west," after the word "parallel."]

SEC. 213. The following described seal is hereby declared to be and hereby constituted the Great Seal of the State of North Dakota, to-wit: A tree in the open field, the trunk of which is surrounded by three bundles of wheat; on the right a plow, anvil and sledge; on the left a bow crossed with three arrows, and an Indian on horseback pursuing a buffalo towards the setting sun; the foliage of the tree arched by a half circle of forty two stars, surrounded by the motto "Liberty and Union now and forever, one and inseparable;" the words "Great Seal" at the top; the words "State of North Dakota" at the bottom; "October 1st" on on the left and "1889" on the right. The seal to be two and one-half inches in diameter.

SEC. 214. The right of the debtor to enjoy the comforts and necessaries of life shall be recognized by wholesome laws, exempting from forced sale a homestead the value of which shall be limited and defined by law, and a reasonable amount of personal property; the kind and value shall be fixed by law. This section shall not be construed to prevent liens against the homestead for labor done and materials furnished in the improvement thereof, in such manner as may be prescribed by law.

[Recommend to insert the words "to all heads of families" after the word "sale."]

SEC. 215. The labor of children under twelve years of age, shall be prohibited in mines, factories and workshops in this state.

SEC. 216. All flowing streams and water ways shall forever remain the property of the State.

SEC. 217. Members of the Legislative Assembly and judicial department except such inferior officers as may be by law exempted shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm as the case may be) that I will support the Constitution of the United States and the Constitution of the State of North Dakota; and that I will faithfully discharge the duties of the office of ..... according to the best of my ability, so help me God," and no other oath, declaration, or test shall be required as a qualification for any office or public trust.

[Recommend to strike out the words "So help me God." ]

### ARTICLE XVIII.

#### CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT.

SEC. 518. Until otherwise provided by law, the members of the House of Representatives of the United States apportioned to this state, shall be elected at large.

Until otherwise provided by law, the Senatorial and Representative Districts shall be formed, and the senators and the representatives shall be apportioned as follows:

The First District shall consist of the townships of Walhalla, St. Joseph, Neche, Pembina, Bathgate, Carlisle, Joliette, Midland, Lincoln and Drayton, in the county of Pembina, and be entitled to one senator and two representatives.

The Second District shall consist of the townships of St. Thomas, Hamilton, Cavalier, Akra, Beaulie, Thingvalla, Gardar, Park, Crystal, Elora and Lodema, in the county of Pembina, and be entitled to one senator and two representatives.

The Third District shall consist of the townships of Perth, Latona, Adams, Silvesta, Cleveland, Morton, Vesta, Tiber, Medford, Vernon, Golden, Lampton, Eden, Rushford, Kensington, Dundee, Ops, Prairie Center, Fertile and Glenwood, in the county of Walsh, and be entitled to one senator and two representatives.

The Fourth District shall consist of the townships of Forest River, Walsh Center, Grafton, Farmington, Ardock, Harrison, Oakwood, Martin, Walshville, Pulaski, Ackton and St. Andrews, in the county of Walsh, and be entitled to one senator and three representatives.

The Fifth District shall consist of the townships of Gilby, Johnstown, Straban, Wheatfield, Hegton, Arvilla, Avon, Northwood, Lind, Grace, Larimore, and the city of Larimore, Elm Grove, Agnes, Inkster, Elkmount, Oakwood, Niagara, Moraine, Logan and Loretta in the county of Grand Forks, and be entitled to one senator and two representatives.



The Sixth District shall consist of the Third, Fourth, Fifth and Sixth wards of the city of Grand Forks, as now constituted, and the townships of Falconer, Harvey, Turtle River, Ferry, Rye, Blooming, Meckinock, Lakeville and Levant in the county of Grand Forks and be entitled to one senator and two representatives.

The Seventh District shall consist of the First and Second wards of the city of Grand Forks, as now constituted, and the townships of Grand Forks, Brenna, Oakville, Chester, Pleasant View, Fairfield, Allendale, Walle, Benton, Americus, Michigan, Union and Washington, in the county of Grand Forks, and be entitled to one senator and two representatives.

The Eighth District shall consist of the county of Traill and be entitled to one senator and four representatives.

The Ninth District shall consist of the township of Fargo and the City of Fargo in the County of Cass and be entitled to one senator and two representatives.

The Tenth District shall consist of the townships of Noble, Wisner, Harwood, Reed, Barnes, Stanley, Pleasant, Kenyon, Gardner, Berlin, Raymond, Mapleton, Warren, Norman, Elm River, Harmony, Durbin, Addison, Davenport, Casselton and the City of Casselton, in the County of Cass, and be entitled to one senator and three representatives.

The Eleventh District shall consist of the townships of Webster, Rush River, Hunter, Arthur, Amenia, Everest, Maple River, Leonard, Dows, Erie, Empire, Wheatland, Gill, Walburg, Watson, Page, Rich, Ayr, Buffalo, Hawes, Eldrich, Highland, Rochester, Lake, Cornell, Tower, Hill, Clifton and Pontiac, in the County of Cass, and be entitled to one senator and three representatives.

The Twelfth District shall consist of the county of Richland and be entitled to one senator and three representatives.

The Thirteenth District shall consist of the county of Sargent and be entitled to one senator and two representatives.

The Fourteenth District shall consist of the county of Ransom and be entitled to one senator and two representatives.

The Fifteenth District shall consist of the county of Barnes and be entitled to one senator and two representatives.

The Sixteenth District shall consist of the counties of Steele and Griggs and be entitled to one senator and two representatives.

The Seventeenth District shall consist of the county of Nelson and be entitled to one senator and one representative.

The Eighteenth District shall consist of the county of Cavalier and be entitled to one senator and two representatives.

The Nineteenth District shall consist of the counties of Towner and Rolette and be entitled to one senator and one representative.

The Twentieth District shall consist of the counties of Benson

and Pierce and be entitled to one senator and two representatives.

The Twenty-first District shall consist of the county of Ramsey and be entitled to one senator and two representatives.

The Twenty-second District shall consist of the counties of Eddy, Foster and Wells and be entitled one senator and two representatives.

The Twenty-third District shall consist of the county of Stutsman, and be entitled to one senator and two representatives.

The Twenty-fourth District shall consist of the county of La-Moure, and be entitled to one senator and one representative.

The Twenty-fifth District shall consist of the county of Dickey, and be entitled to one senator and two representatives.

The Twenty-sixth District shall consist of the counties of Emmons, McIntosh, Logan and Kidder, and be entitled to one senator and two representatives.

The Twenty-seventh District shall consist of the county of Burleigh, and be entitled to one senator and two representatives.

The Twenty-eighth District shall consist of the counties of Bottineau and McHenry and be entitled to one senator and one representative.

The Twenty-ninth District shall consist of the counties of Ward, McLean, and all the unorganized counties laying north of the Missouri river, and be entitled to one senator and one representative.

The Thirtieth District shall consist of the counties of Morton and Oliver, and be entitled to one senator and two representatives.

The Thirty-first District shall consist of the counties of Mercer, Stark and Billings and all the unorganized counties lying south of the Missouri river, and be entitled to one senator and one representative.

## ARTICLE XIX.

### PUBLIC INSTITUTIONS.

SEC. 219. The following public institutions of the State are permanently located at the places hereinafter named, each to have the lands specifically granted to it by the United States, in the Act of Congress, approved February 22, 1889, to be disposed of and used in such manner as the Legislative Assembly may prescribe.

[Recommend that the following words subject to the limitations provided in the article on school and public lands contained in this Constitution.

First. The seat of government at the city of Bismarck in the county of Burleigh.

Second. The State University and the School of Mines at the city of Grand Forks, in the county of Grand Forks.

Third. The Agricultural College at the city of Fargo in the county of Cass.

Fourth. A State Normal School at the city of Valley City, in the county of Barnes; and the Legislative Assembly in apportioning the grant of eighty thousand acres of land for Normal schools made in the Act of Congress referred to shall grant to the said Normal School at Valley City as aforementioned, fifty thousand (50,000) acres, and said lands are hereby appropriated to said institution for that purpose.

Fifth. The Deaf and Dumb Asylum at the city of Devils Lake in the county of Ramsey.

Sixth. A State Reform School at the city of Mandan in the county of Morton.

Seventh. A State Normal School at the town of Mayville, in the county of Traill. And the Legislative Assembly in apportioning the grant of lands made by Congress, in the act aforesaid for State Normal Schools, shall assign thirty thousand acres to the institution hereby located at Mayville, and said lands are hereby appropriated for that purpose.

Eighth. A State Hospital for the Insane and an Institution for the Feeble-Minded, in connection therewith, at the city of Jamestown in the county of Stutsman. And the Legislative Assembly shall appropriate twenty thousand acres of the grant of lands made by the act of Congress aforesaid for "Other Educational and Charitable Institutions" to the benefit and for the endowment of said institution.

SEC. 220. The following named public institutions are hereby permanently located as hereinafter provided, each to have so much of the remaining grant of one hundred and seventy thousand acres of land made by the United States for "Other Educational and Charitable Institutions," as is allotted below, viz:

First. A Soldiers' Home, when located, or such other charitable institution as the Legislative Assembly may determine, at Lisbon, in the county of Ransom with a grant of forty thousand acres of land.

Second. A Blind Asylum, or such other institution as the Legislative Assembly may determine, at such place in the county of Pembina as the qualified electors may determine at an election to be held as prescribed by the Legislative Assembly, with a grant of thirty thousand acres.

Third. An Industrial School and School for Manual Training, or such other educational institution as the Legislative Assembly may provide, at the town of Ellendale in the county of Dickey, with a grant of forty thousand acres.

Fourth. A school of forestry or such other institution as the Legislative Assembly may determine, at such place in one of the

counties of McHenry, Ward, Bottineau, or Rollette, as the electors of said counties may determine by an election for that purpose, to be held as provided by the Legislative Assembly.

Fifth. A scientific school, or such "other educational or charitable institution" as the Legislative Assembly may prescribe, at the city of Wahpeton, county of Richland, with a grant of forty thousand acres. *Provided*, That no other institution of a character similar to any one of those located by this article shall be established or maintained without a revision of this Constitution.

## ARTICLE XX.

### PROHIBITION.

To be submitted to a separate vote of the people as provided by the schedule and ordinance.

SEC. 221. No person, association or corporation shall within this State, manufacture for sale or gift, any intoxicating liquors and no person, association or corporation shall import any of the same for sale or gift, or keep or offer the same for sale or gift, barter or trade as a beverage. The Legislative Assembly shall by law prescribe regulations for the enforcement of the provisions of this article and shall thereby provide suitable penalties for the violation thereof.

[Recommend insert "or sell" after the word "keep."]

### SCHEDULE.

SECTION 1. That no inconvenience may arise from a change of territorial government to state government, it is declared that all writs, actions prosecutions, claims and rights of individuals and bodies corporate shall continue as if no change of government had taken place, and all processes which may, before the organization of the judicial department under this Constitution, be issued under the authority of the Territory of Dakota shall be as valid as if issued in the name of the State.

SEC. 2. All laws now in force in the Territory of Dakota, which are not repugnant to this Constitution, shall remain in force until they expire by their own limitations or be altered or repealed.

SEC. 3. All fines, penalties, forfeitures and escheats accruing to the Territory of Dakota shall accrue to the use of the states of North Dakota and South Dakota and may be sued for and recovered by either of said states as necessity may require.

SEC. 4. All recognizances, bonds, obligations or other undertakings heretofore taken, or which may be taken before the organization of the judicial department under this Constitution, shall remain valid, and shall pass over to, and may be prosecuted in the name of the state; all bonds, obligations or other undertakings executed to this territory, or to any officer in his official capacity, shall pass over to the proper state authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly; all criminal prosecutions and penal actions which have arisen, or may arise before the organization of the judicial department, under this Constitution, or which shall then be pending, may be prosecuted to judgment and execution in the name of the state.

SEC. 5. All property, real and personal, and credits, claims and choses in action belonging to the Territory of Dakota at the time of the adoption of this

Constitution, shall be vested in and become the property of the State of North Dakota and South Dakota.

SEC. 6. Whenever any two of the judges of the Supreme court of the State, elected under the provisions of this Constitution shall have qualified in their offices, the causes then pending in the Supreme court of the Territory on appeal or writ of error from the district courts of any county or subdivision within the limits of this State, and the papers, records and proceedings of said court shall pass into the jurisdiction and possession of the Supreme court of the State, except as otherwise provided in the enabling act of Congress, and until so superceded the Supreme court of the Territory and the judges thereof shall continue, with like powers and jurisdiction, as if this Constitution had not been adopted. Whenever the judge of the district court of any district elected under the provisions of this Constitution shall have qualified in his office, the several causes then pending in the district court of the Territory within any county in such district, and the records, papers and proceedings of said district court; and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the district court of the State for such county, except as provided in the enabling act of Congress, and until the district courts of this Territory shall be superceded in the manner aforesaid, the said district courts and the judges thereof shall continue with the same jurisdiction and power to be exercised in the same judicial districts respectively as heretofore constituted under the laws of the Territory.

SEC. 7. Until otherwise provided by law, the seals now in use in the supreme and district courts of this Territory are hereby declared to be the seals of the supreme and district courts respectively of the State.

SEC. 8. Whenever this Constitution shall go into effect, the books, records and papers, and proceedings of the probate court in each county, and all causes and matters of administration and other matters pending therein, shall pass into the jurisdiction and possession of the county court of the same county, and the said county court shall proceed to final decree or judgment, order or other determination in the said several matters and causes as the said probate court might have done if this Constitution had not been adopted. And until the election and qualification of the judges of the county courts provided for in this Constitution, the probate judges shall act as the judges of the county courts within their respective counties, and the seal of the probate court in each county shall be the seal of the county court therein, until the said court shall have procured a proper seal.

SEC. 9. The terms "probate court" or "probate judge" whenever occurring in the statutes of the territory shall, after this Constitution goes into effect, be held to apply to the county court or county judge.

SEC. 10. All territorial, county and precinct officers, who may be in office at the time this Constitution takes effect, whether holding their offices under the authority of the United States or of the Territory, shall hold and exercise their respective offices, and perform the duties, thereof as prescribed in this Constitution, until their successors shall be elected and qualified in accordance with the provisions of this Constitution, and official bonds of all such officers shall continue in full force and effect as though this Constitution had not been adopted; and such officers for their term of service, under this Constitution, shall receive the same salaries and compensation as is by this Constitution, or by the laws of the territory, provided for like officers. *Provided*, That the county and precinct officers shall hold their offices for the term for which they were elected. Until the general election in A. D. 1890, the judges of the district courts shall have power to appoint a clerk of the court in each organized county, who shall hold his office until his successor shall be elected and qualified.

SEC. 11. This Constitution shall take effect and be in full force immediately upon the admission of the territory as a state.

SEC. 12. Immediately upon the adjournment of this Convention the Governor of the Territory, or in case of his absence or failure to act, the Secretary

of the Territory, or in case of his absence or failure to act, the President of the Constitutional Convention shall issue a proclamation, which shall be published and a copy thereof mailed to the chairman of the board of county commissioners of each county, calling an election by the people on the first Tuesday in October, 1889, of all the state and district officers created and made elective by this Constitution. This Constitution shall be submitted for adoption or rejection at said election to a vote of the electors qualified by the laws of this territory to vote at all elections. At the election provided for herein the qualified voters shall vote directly for or against this Constitution and for or against the article separately submitted.

SEC. 13. The board of commissioners of the several counties shall thereupon order such election for said day, and shall cause notice thereof to be given "for the period of 20 days in the manner provided by law." Every qualified elector of the territory, at the date of said election, shall be entitled to vote thereat. Said election shall be conducted in all respects in the same manner as provided by the laws of the territory for general elections, and the returns for all state and district officers, and members of the Legislative Assembly, shall be made to the canvassing board hereinafter provided for.

SEC. 14. The Governor, Secretary and Chief Justice or a majority of them, shall constitute a board of canvassers to canvass the vote of such elections for all state and district officers and members of the Legislative Assembly. The said board shall assemble at the seat of government of the Territory on the fifteenth day after the day of such election (or on the following day if such day fall on Sunday), and proceed to canvass the votes on the adoption of this Constitution and for all State and district officers and members of the Legislative Assembly in the manner provided by the laws of the Territory for canvassing the vote for Delegate to Congress, and they shall issue certificates of election to the persons found to be elected to said offices severally, and shall make and file with the Secretary of the Territory an abstract certified by them, of the number of votes cast for or against the adoption of the Constitution, and for each person for each of said offices and of the total number of votes cast in each county.

SEC. 15. All officers elected at such election shall, within sixty days after the date of the executive proclamation admitting the State of North Dakota into the Union, take the oath required by this Constitution, and give the same bond required by the law of the Territory to be given in case of like officers of the Territory and districts, and shall thereupon enter upon the duties of their respective offices; but the Legislative Assembly may require by law all such officers to give other or further bonds as a condition of their continuance in office.

SEC. 16. The judges of the district court who shall be elected at the election herein provided for shall hold their offices until the first Monday in January, 1893, and until their successors are elected and qualified. All other state officers, except judges of the supreme court, who shall be elected at the election herein provided for, shall hold their offices until the first Monday in January, 1891, and until their successors are elected and qualified. Until otherwise provided by law the judges of the supreme court shall receive for their services the salary of four thousand dollars per annum, payable quarterly; and the district judges shall receive for their services the salary of three thousand dollars per annum, payable quarterly.

SEC. 17. The Governor elect of the state immediately upon his qualifying and entering upon the duties of his office shall issue his proclamation convening the Legislative Assembly of the State at the seat of government, on a day to be named in said proclamation, and which shall not be less than fifteen nor more than forty days after the date of such proclamation. And said Legislative Assembly after organizing shall proceed to elect two senators of the United States for the State of North Dakota; and at said election the two persons who shall receive a majority of all the votes cast by the said senators and representatives shall be elected such United States Senators. And the presiding officers

of the senate and house of representatives shall each certify the election to the Governor and Secretary of the State of North Dakota; and the Governor and Secretary of State shall certify the elections of such senators as provided by law.

SEC. 18. At the election herein provided for there shall be elected a Representative to the Fifty-First Congress of the United States, by the electors of the state at large.

SEC. 19. It is hereby made the duty of the Legislative Assembly at its first session to provide for the payment of all debts and indebtedness authorized to be incurred by the Constitutional Convention of North Dakota, which shall remain unpaid after the appropriation made by Congress for the same shall have been exhausted.

SEC. 20. There shall be submitted at the same election at which this Constitution is submitted for rejection or adoption, Article — entitled "prohibition" and persons who desire to vote for said article shall have written or printed on their ballots "for prohibition, yes," and all persons desiring to vote against said article shall have written or printed on their ballots "for prohibition, no." It if shall appear according to the returns herein provided for that a majority of all the votes cast at said election for and against prohibition are for prohibition, then said Article — shall be and form a part of this Constitution and be in full force and effect as such from the date of the admission of this state into the Union. But if a majority of said votes shall appear according to said returns to be against prohibition, then said Article — shall be null and void, and shall not be a part of this Constitution.

SEC. 21. The agreement made by the Joint Commission of the Constitutional Conventions of North Dakota and South Dakota concerning the records, books and archives of the Territory of Dakota, is hereby ratified and confirmed; which agreement is in the words following: That is to say—

The following books, records and archives of the Territory of Dakota shall be the property of North Dakota, to-wit: All records, books and archives in the offices of the Governor and Secretary of the Territory (except records of Articles of Incorporation of Domestic Corporations, returns of election of Delegates to the Constitutional Convention of 1889 for South Dakota returns of elections held under the so called Local Option Law, in counties within the limits of South Dakota, bonds of Notaries Public appointed for counties within the limits of South Dakota, papers relating to the organization of counties situate within the limits of South Dakota, all which records and archives are a part of the records and archives of said Secretary's office; excepting also, census returns from counties situate within the limits of South Dakota and papers relating to requisitions issued upon the application of officers of counties situate within the limits of South Dakota, all which are a part of the records and archives of said Governor's office). And the following records, books and archives shall also be the property of the State of North Dakota, to-wit:

Vouchers in the office or custody of the Auditor of this Territory relating to expenditures on account of public institutions, grounds or buildings situate within the limits of North Dakota. One Warrant Register in the office of the Treasurer of this territory—being a record of warrants issued under and by virtue of Chapter 24 of the laws enacted by the Eighteenth Legislative Assembly of Dakota Territory. All letters, receipts and vouchers in the same office now filed by counties and pertaining to counties within the limits of North Dakota. Paid and canceled coupons in the same office representing interest on bonds which said State of North Dakota is to assume and pay. Reports of gross earnings of the year 1888 in the same office, made by corporations operating lines of railroads situated wholly or mainly within the limits of North Dakota. Records and papers of the office of the Public Examiner of the Second District of the territory. Records and papers of the office of the District Board of Agriculture. Records and papers in the office of the Board of Pharmacy of the District of North Dakota.

All records, books and archives of the Territory of Dakota which it is not

herein agreed shall be the property of North Dakota, shall be the property of South Dakota.

The following books shall be copied and the copies shall be the property of North Dakota and the cost of such copies shall be borne equally by said States of North Dakota and South Dakota. That is to say:

Appropriation Ledger for years ending November 1889-90—one volume.

The Auditor's Current Warrant Register—one volume.

Insurance Record for 1889—one volume.

Treasurer's Cash Book—"D."

Assessment Ledger—"B."

Dakota Territory Bond Register—one volume.

Treasurer's Current Ledger—one volume.

The originals of the foregoing volumes which are to be copied shall at any time after such copying shall have been completed, be delivered on demand to the proper authorities of the State of South Dakota.

All other records, books and archives which is hereby agreed shall be the property of South Dakota, shall remain at the Capitol of North Dakota until demanded by the Legislature of the State of South Dakota and until the State of North Dakota shall have had a reasonable time after such demand is made to provide copies or abstracts of such portions thereof as the said State of North Dakota may desire to have copies or abstracts of.

The State of South Dakota may also provide copies or abstracts of such records, books and archives, which it is agreed shall be the property of North Dakota, as said State of South Dakota shall desire to have copies or abstracts of.

The expense of all copies or abstracts of records, books and archives which it is herein agreed may be made, shall be borne equally by said two states

Sec. 22. Should the counties containing lands which form a part of the grant of lands made by Congress to the Northern Pacific railroad company be compelled by law to refund moneys paid for such lands or any of them by purchasers thereof at tax sales thereof, based upon taxes illegally levied upon said lands, then and in that case the State of North Dakota shall appropriate the sum of \$25,000, or so much thereof as may be necessary to reimburse said counties for the amount so received from said illegal tax sales and paid by said counties into the treasury of Dakota Territory.

Mr. Moer moved to adjourn.

Which motion prevailed and the convention adjourned.

#### EVENING SESSION.

The Convention assembled at 8 o'clock p. m., pursuant to adjournment.

Mr. Scott moved to proceed to the consideration of the report of the Committee on Revision and Adjustment, section by section,

Which motion prevailed.

Mr. Rowe moved that File No. 38 be substituted for the preamble reported from the committee,

Mr. Stevens moved that the motion be laid on the table.

Which motion prevailed.

We, the people of North Dakota with profound reverence for the Supreme Ruler of the Universe do ordain and establish this Constitution.

Mr. Stevens moved to lay the substitute on the table.

Which motion prevailed.



Mr. Stevens moved that the preamble as reported from the committee be adopted.

Which motion prevailed.

Mr. Rolfe moved that unless objection is made, each section, with the amendments proposed, be adopted.

Section one of article one was adopted.

Section two was adopted as recommended to be amended by the committee.

Mr. Scott moved that the word "it" be restored as the last word of the section.

Which motion was lost.

Section three was adopted.

Section four was adopted.

Section five was adopted.

Section six as recommended to be amended by the committee was adopted.

Section seven was adopted.

Section eight, as recommended to be amended by the committee, was adopted.

Section nine, as recommended to be amended by the committee, was adopted.

Section ten, as recommended to be amended by the committee, was adopted.

Section eleven was adopted.

Section twelve, as recommended to be amended by the committee, was adopted.

Mr. Scott moved that the word "State" in the second line be capitalized.

Which motion was lost.

Section thirteen was adopted.

Section fourteen, as recommended to be amended by the committee, was adopted.

Sections fifteen (15), sixteen (16), seventeen (17), eighteen (18), nineteen (19), twenty (20), twenty-one (21) and twenty-two (22) were adopted.

Mr. Parsons, of Morton, moved that the recommendation of the committee, that section twenty-three be stricken out, be laid on the table.

Ayes and nays were demanded.

The roll being called there were ayes 25, nays 39.

Those who voted in the affirmative were:

Messrs—  
Allin,  
Colton,

Messrs—  
McBride,  
Miller,

Messrs—  
Rowe,  
Shuman,

Gray,  
Griggs,  
Harris,  
Hoyt,  
Johnson,  
Lauder,  
Linwell,

Parsons of Morton,  
Peterson,  
Powles,  
Ray,  
Richardson,  
Rolfe,

Slotten,  
Stevens,  
Turner,  
Wallace,  
Williams,  
Mr. President.

Those who voted in the negative were:

Messrs—  
Bartlett of Griggs,  
Bartlett of Dickey,  
Bell,  
Bennett,  
Blewett,  
Brown,  
Budge,  
Camp,  
Carland,  
Carothers,  
Chaffee,  
Clapp,  
Douglas,

Messrs—  
Elliott,  
Fay,  
Flemington,  
Gayton,  
Glick,  
Haugen,  
Hegge,  
Holmes,  
Lowell,  
Mathews,  
Meacham,  
Moer,  
Noble,

Messrs—  
Nomland,  
O'Brien,  
Parsons of Rolette,  
Paulson,  
Purcell,  
Pollock,  
Robertson,  
Sandager,  
Scott,  
Selby,  
Spalding,  
Wellwood,  
Whipple,

Absent and not voting:

Messrs—  
Alman,  
Appleton,  
Bean,  
Best,

Messrs—  
Clark,  
Leach,  
Lohnes,  
Marrinan,

Messrs—  
McHugh,  
McKenzie,  
Powers.

And so the motion was lost.

Mr. Spalding moved to amend section twenty-three, by striking out in line three the words "keeping a black-list."

Mr. Scott moved, as a substitute, that the recommendation of the committee be concurred in.

Mr. Lauder moved as an amendment that the section as originally adopted and printed be adopted.

Mr. Scott moved the previous question and the question being, shall the main question be now put and being taken prevailed.

Ayes and nays were demanded on the motion of Mr. Lauder.

The roll being called there were ayes 24; nays 38.

Those who voted in the affirmative were—

Messrs—  
Allin,  
Elliott,  
Gray,  
Griggs,  
Harris,  
Haugen,  
Hoyt,  
Johnson,

Messrs—  
Lauder,  
Linwell,  
McBride,  
Parsons of Morton,  
Peterson,  
Powles,  
Ray,  
Richardson,

Messrs—  
Rowe,  
Sandager,  
Slotten,  
Stevens,  
Turner,  
Wallace,  
Williams,  
Mr. President.

Those who voted in the negative were—

Messrs—  
Bartlett of Dickey,  
Bartlett of Griggs,

Messrs—  
Fay,  
Flemington,

Messrs—  
O'Brien,  
Parsons of Rolette,

Bell,	Gayton,	Paulson,
Bennett,	Glick,	Purcell,
Blewett,	Hegge,	Pollock,
Brown,	Holmes,	Robertson,
Budge,	Lowell,	Scott,
Camp,	Mathews,	Selby,
Carland,	Meacham,	Shuman,
Carothers,	Miller,	Spalding,
Chaffee,	Moer,	Wellwood,
Clapp,	Noble,	Whipple.
Douglas,	Nomland,	

Absent and not voting—

Messrs—	Messrs—	Messrs—
Almen,	Colton,	McHugh,
Appleton,	Leach,	McKenzie,
Bean,	Lohnes,	Powers,
Best,	Marrinan,	Rolfe,
Clark,		

And so the motion was lost.

The question recurring on the substitute motion of Mr. Scott, the ayes and nays were demanded.

The roll being call, there were ayes, 37; nays, 25.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Bartlett of Dickey.	Fay,	Nomland,
Bartlett of Griggs,	Flemington.	O'Brien,
Bell,	Gayton,	Parsons, of Rolette,
Bennett,	Glick,	Paulson,
Blewett,	Hegge,	Purcell,
Brown,	Holmes,	Pollock,
Budge,	Mathews,	Robertson,
Camp,	Meacham,	Scott,
Carland,	McBride,	Selby,
Carothers,	Miller,	Shuman,
Chaffee,	Moer,	Wellwood,
Clapp,	Noble,	Whipple.
Douglas,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Allin,	Lauder,	Sandager,
Colton,	Linwell,	Slotten,
Elliott,	Parsons, of Morton.	Spalding,
Gray,	Peterson,	Stevens,
Griggs,	Powles,	Turner,
Harris,	Ray,	Wallace,
Haugen,	Richardson,	Williams.
Hoyt,	Rowe,	Mr. President.
Johnson,		

Absent and not voting—

Messrs—	Messrs—	Messrs—
Almen,	Leach,	McHugh,
Appleton,	Lohnes,	McKenzie,
Bean,	Lowell,	Powers,
Best,	Marrinan,	Rolfe,
Clark,		

And so the motion prevailed.

Mr. Lauder moved that the following be inserted in article one as section twenty-three:

“Every citizen of this state shall be free to obtain employment wherever possible, and any person, corporation, or agent thereof, interfering or hindering in any way, a citizen from obtaining or enjoying employment already obtained from any other corporation or person shall be deemed guilty of a misdemeanor and shall be punished according to law.”

Mr. Moer raised the point of order that the motion could not be made at this time.

The chair decided the point of order well taken.

Mr. Lauder appealed from the decision of the chair.

Which appeal was sustained.

Mr. Scott moved to lay the amendment of Mr. Lauder on the table.

Which motion was withdrawn.

Mr. Spalding moved to amend the section proposed by Mr. Lauder so as to read as follows:

Every citizen of this state shall be free to obtain employment wherever possible, and any person, corporation, or agent thereof, maliciously interfering or hindering in any way, any citizen from obtaining or enjoying employment already obtained from any other corporation or person, shall be deemed guilty of a misdemeanor.

Which amendment was accepted and the original motion as amended prevailed.

Section 24 was adopted.

Mr. Carland moved to insert a semi-colon (;) between the words “act” and “or” in section nineteen.

Which motion prevailed.

Mr. Selby moved that the preamble and article one be passed as amended.

Ayes and nays demanded.

The roll being called there were ayes 57.

Those who voted in the affirmative were:

Messrs—

Allin,  
Bartlett, of Dickey,  
Bartlett of Griggs,  
Bennett,  
Blewett,  
Brown,  
Budge,  
Camp,  
Carland,  
Carothers,  
Chaffee,  
Clapp,  
Colton,  
Elliott,  
Fay,  
Flemington,  
Gayton,  
Glick,  
Gray,

Messrs—

Griggs,  
Harris,  
Hegge,  
Holmes,  
Hoyt,  
Johnson,  
Lauder,  
Linwell,  
Lowell,  
Mathews,  
Meacham,  
Miller,  
Moer,  
Noble,  
Nomland,  
Parsons of Morton,  
Parsons of Rolette,  
Paulson,  
Peterson,

Messrs—

Powles,  
Purcell,  
Pollock,  
Ray,  
Richardson,  
Robertson,  
Rowe,  
Sandager,  
Scott,  
Selby,  
Shuman,  
Slotten,  
Spalding,  
Turner,  
Wallace,  
Wellwood,  
Whipple.  
Williams,  
Mr. President.

## Absent and not voting—

Messrs—  
Almen,  
Appleton,  
Bean,  
Bell,  
Best,  
Clark,

Messrs—  
Douglas,  
Haugen,  
Leach,  
Lohnes,  
Marrinan,  
McBride,

Messrs—  
McHugh,  
McKenzie,  
O'Brien,  
Powers,  
Rolfe,  
Stevens,

And so the preamble and article one as amended was passed.

Mr. Bartlett, of Griggs, moved that when the convention adjourns it be to meet again at 9:30 o'clock to-morrow morning.

Which motion prevailed.

Mr. Colton moved that as soon as an article is adopted it be sent to the enrolling and engrossing clerks.

Which motion prevailed.

Mr. Parsons moved to adjourn.

Which motion prevailed,

And the convention adjourned.

J. G. HAMILTON,  
Chief Clerk.

WEDNESDAY, AUG. 14, 1889.

The Convention assembled at 9:30 o'clock a. m., pursuant to adjournment.

The President presiding.

Prayer was offered by the Chaplain.

The roll was called, all members absent being excused.

PETITIONS, REMONSTRANCES, ETC.

MAYVILLE, N. D., Aug. 13.

*To the Hons. Paulson and Hegge:*

Farmers in Steele and Traill endorse location of public institutions.

J. ROEHOLT.

MAYVILLE, N. D., Aug. 13, 1889.

*To the Hons. Paulson and Hegge:*

Congratulations from Buxton, Reynolds, Cumings, Caledonia; only kickers are Hillsboro and Portland.

D. D. MURREY.

CLIFFORD, N. D., Aug. 13., 1889.

*To the Hons. Paulson and Hegge:*

Everybody here satisfied with the location of public institutions.

A. F. KRAABLE.

MAYVILLE, N. D., August 13, 1889.

*To Hon. E. M. Paulson:*

Caledonia sends word she endorses you and Hegge. Traill and Steele nearly solid for the constitution.

E. I. SMITH.

MAYVILLE, August 13, 1889.

*To Hons. Paulson and Hegge:*

Big petition goes on train. Traill O. K., except Hillsboro and Portland; farmers jubilant.

A. F. ANDERSON.

HILLSBORO, Aug. 13, 1889.

*To the President of the Constitutional Convention:*

The citizens of Caledonia the capital of Traill county congratulates the members of the Constitutional Convention, and heartily endorse the wisdom and unselfish patriotism manifested in locating all public institutions of the state permanently. Your action will be sustained by four-fifths of the voters of Traill county.

J. P. CLARK,  
W. D. BAKER,  
W. P. CLEVELAND,  
E. N. FALK,

And one hundred others.

BALTIMORE, Md., Aug. 13, 1889.

*To the President of the Constitutional Convention:*

Capitalists of Baltimore, who have \$250,000 invested in North Dakota, congratulate you and the members on the good Constitution you have prepared and the judicious location of public institutions. Regards to Harvey Harris.

G. LANE TANEHILL,  
For the Syndicate.

MANDAN, Aug. 13, 1889.

*To the President of the Constitutional Convention:*

The Republican Convention of Morton county, in session assembled, by a unanimous vote express to your honorable body their hearty approval of your action in locating the public institutions of this state.

S. W. UNKENHOLZ,  
Secretary.

J. J. LUCK,  
Chairman.

## ARTICLE II.

Sections twenty-five (25), twenty-six (26), twenty-seven (27) and (28) were adopted.

Mr. Noble moved to amend section twenty-nine by inserting after the word "district" in line eight the words "and no county shall be entitled to more than one senator."

Which motion was lost.

Sections twenty-nine (29), thirty (30), thirty-one (31), thirty-two (32), thirty-three (33) and thirty-four (34) were adopted.

Mr. Parsons of Rolette, moved that section thirty-five (35) be amended so that it shall read as follows:

The legislative districts shall be composed of contiguous and compact territory, bounded by county lines, and each county having two hundred voters shall be entitled to one representative, and additional representation according to population; *provided*, that in counties divided into two or more senatorial

districts, said districts shall constitute a legislative district and be entitled to representation according to population.

Ayes and nays demanded.

The roll being called there were ayes 28, nays 36, viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Bartlett of Dickey,	Gayton,	Parsons of Morton,
Bennett,	Glick,	Parsons of Rolette,
Blewett,	Gray,	Ray,
Brown,	Griggs,	Rolfe,
Camp,	Harris,	Rowe,
Carland,	Hoyt,	Turner,
Clapp,	Meacham,	Wallace,
Colton,	Noble,	Williams.
Fay,	O'Brien,	Mr. President.
Flemington,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Allin,	Lauder,	Pollock,
Bartlett of Griggs,	Linwell,	Richardson,
Bell,	Lohnes,	Robertson,
Budge,	Lowell,	Sandager,
Carothers,	Mathews,	Scott,
Chaffee,	McBride,	Selby,
Douglas,	McKenzie,	Shuman,
Elliott,	Miller,	Slotten,
Haugen,	Nomland,	Spalding,
Hegge,	Paulson,	Stevens,
Holmes,	Peterson,	Wellwood,
Johnson,	Powles,	Whipple.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Almen,	Clark,	Moer,
Appleton,	Leach,	Powers,
Bean,	Marrinan,	Purcell,
Best,	McHugh,	

And so the amendment was lost.

Mr. Purcell moved to amend section thirty-five (35) by adding at the end thereof the following:

Each elector may cast as many votes for Representatives as there are Representatives to be elected, or may cast for one candidate as many votes as there are Representatives to be elected, or may divide his votes among the Representatives as he may see fit.

Ayes and nays demanded,

The roll being called, there were ayes 21; nays 44.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Bartlett of Dickey.	Douglass,	Noble,
Bartlett of Griggs.	Glick,	O'Brien,
Bell,	Gray,	Parsons of Morton.
Bennett,	Griggs,	Powles,
Blewett,	Hegge,	Purcell,
Camp,	Lowell,	Ray,
Carland,	McBride,	Mr. President.

Those who voted in the negative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Allin,	Johnson,	Robertson,
Brown,	Lauder,	Rolfe,
Budge,	Linwell,	Rowe,
Carothers,	Lohnes,	Sandager,
Chaffee,	Mathews,	Scott,
Clapp,	Meacham,	Selby,
Colton,	McKenzie,	Shuman,
Elliott,	Miller,	Slotten,
Fay,	Nomland,	Spalding,
Flemington,	Parsons of Rolette,	Stevens,
Gayton,	Paulson,	Turner,
Harris,	Peterson,	Wallace,
Haugen,	Pollock,	Wellwood,
Holmes,	Richardson,	Whipple,
Hoyt,		Williams,

Absent and not voting:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Almen,	Clark,	McHugh,
Appleton,	Leach,	Moer,
Bean,	Marrinan,	Powers,
Best,		

And so the amendment was lost.

Mr. Purcell moved to amend section thirty-five (35) by adding at the end thereof the following :

The Legislative Assembly shall divide the senatorial districts into representative districts and no more than one representative shall be elected from one district.

Ayes and nays demanded.

The roll being called there were ayes 31, nays 34.

Those who voted in the affirmative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Bartlett of Dickey,	Gayton,	Parsons of Morton,
Bell,	Glick,	Parsons of Rolette,
Bennett,	Gray,	Purcell,
Blewett,	Griggs,	Ray,
Brown,	Hegge,	Rolfe,
Camp,	Hoyt,	Selby,
Carland,	Lowell,	Spalding,
Clapp,	McBride,	Wallace,
Douglas,	Noble,	Williams,
Fay,	O'Brien,	Mr. President.
Flemington,		

Those who voted in the negative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Allin,	Linwell,	Richardson,
Bartlett of Griggs,	Lohnes,	Robertson,
Budge,	Mathews,	Rowe,
Carothers,	Meacham,	Sandager,
Chaffee,	McKenzie,	Scott,
Colton,	Miller,	Shuman,
Elliott,	Nomland,	Slotten,
Harris,	Paulson,	Stevens,
Haugen,	Peterson,	Turner,
Holmes,	Powles,	Wellwood,
Johnson,	Pollock,	Whipple,
Lauder,		



Absent and not voting:

Messrs—	Messrs—	Messrs—
Almen,	Clark,	McHugh,
Appleton,	Leach,	Moer,
Bean,	Marrinan,	Powers.
Best,		

And so the amendment was lost.

Mr. President called Mr. Carland to the chair.

Mr. Lauder moved that section thirty-five be adopted as reported from the committee.

Ayes and nays demanded.

The roll being called, there were ayes, 49; nays, 16.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Allin,	Johnson,	Richardson.
Bartlett of Griggs,	Lauder,	Robertson,
Bell,	Linwell,	Rowe,
Bennett,	Lohnes,	Sandager,
Blewett,	Lowell,	Scott,
Budge,	Mathews,	Selby,
Camp,	Meacham,	Shuman,
Carothers,	McBride,	Slotten,
Chaffee,	McKenzie,	Spalding,
Clapp,	Miller,	Stevens,
Colton,	Nomland,	Turner,
Douglass,	Parsons of Morton,	Wallace,
Elliott,	Paulson,	Wellwood,
Glick,	Peterson,	Whipple,
Harris,	Powles,	Williams,
Haugen,	Pollock,	Mr. President.
Holmes,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Bartlett of Dickey,	Gray,	O'Brien,
Brown,	Griggs,	Parsons of Rolette.
Carland,	Hegge,	Purcell,
Fay,	Hoyt,	Ray,
Flemington,	Noble,	Rolfe,
Gayton,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Almen,	Clark,	McHugh,
Appleton,	Leach,	Moer,
Bean,	Marrinan,	Powers,
Best,		

And so the motion prevailed.

Mr. Johnson moved to amend section thirty (30) by inserting after the word "class" where it last appears in the sixth line, the words: "In the senate first elected under this Constitution."

Which motion was lost.

Mr. Spalding moved to amend section thirty (30) by inserting after the word "class" where it last appears in the sixth line, the words "elected in 1890."

Which motion prevailed.

Mr. Scott moved that when a section has been passed as adopted it shall not be returned for the purpose of amendment except by unanimous consent.

Mr. Clapp moved as a substitute that when any changes are desired to be made in any section which has been passed, they shall only be considered at the time the article as a whole is being considered for final adoption.

Mr. Williams moved to lay the principal motion and the substitute on the table.

Which motion prevailed.

Mr. Camp moved to amend section thirty-five (35) by adding the following:

The Legislative Assembly shall, in the year 1895, and every tenth year thereafter, cause an enumeration to be made of all the inhabitants of this state, and shall at its first regular session, after each such enumeration and also after each federal census, proceed to fix by law the number of senators which shall constitute the senate of North Dakota, and the number of representatives which shall constitute the House of Representatives of North Dakota, within the limits prescribed by this Constitution; and at the same session shall proceed to re-apportion the state into senatorial districts, as prescribed by this Constitution, and to fix the number of members of the House of Representatives, to be elected from the several senatorial districts.

Which amendment was adopted.

Mr. Johnson moved as an amendment that the words "and also after each federal census" be inserted after the word "enumeration."

Which amendment prevailed.

Mr. Parsons of Morton, moved to reconsider the vote by which Mr. Camp's amendment to section thirty-five (35) was adopted.

Which motion was lost.

Mr. Rolfe moved to amend Section thirty-five (35) by adding thereto the following:

*Provided*, That the Legislative Assembly, at any regular session, may re-district the state into senatorial districts and apportion the senators and representatives respectively.

Mr. Purcell offered the following as an amendment to the amendment proposed by Mr. Rolfe: "The Legislative Assembly shall have the power to apportion the senatorial districts into representative districts."

Ayes and nays demanded.

The roll being called, there ayes 29, nays 28, viz.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Bartlett of Dickey,	Gayton,	Powles,
Bell,	Gray,	Purcell,
Bennett,	Griggs,	Ray,
Blewett,	Harris,	Rolfe,
Camp,	Hoyt,	Rowe,

Carland,  
Clapp,  
Douglas,  
Fay,  
Flemington,

Lowell,  
McBride,  
Noble,  
O'Brien,  
Parsons of Morton,

Spalding,  
Turner,  
Williams,  
Mr. President.

Those who voted in the negative were:

Messrs—

Allin,  
Bartlett of Griggs,  
Budge,  
Carothers,  
Chaffe  
Colton,  
Elliott,  
Haugen,  
Hegge,  
Holmes,

Messrs—

Johnson,  
Lauder,  
Linwell,  
Mathews,  
Meacham,  
McKenzie,  
Nomland,  
Paulson,  
Peterson,

Messrs—

Pollock,  
Richardson,  
Robertson,  
Sandager,  
Scott,  
Slotten,  
Stevens,  
Wallace,  
Wellwood,

Absent and not voting:

Messrs—

Almen,  
Appleton,  
Bean,  
Best,  
Brown,  
Clark,

Messrs—

Glick,  
Leach,  
Lohnes,  
Marrinan,  
McHugh,  
Miller,

Messrs—

Moer,  
Parsons of Rolette,  
Powers,  
Selby,  
Shuman,  
Whipple.

And so the amendment to the amendment prevailed.

Mr. Stevens moved to adjourn.

Which motion was lost.

The question recurring on the motion of Mr. Rolfe as amended,

The ayes and nays were demanded.

The roll being called, there were ayes 30; nays 27 viz:

Those who voted in the affirmative were:

Messrs—

Bartlett of Dickey,  
Bell,  
Bennett,  
Blewett,  
Brown,  
Camp,  
Carland,  
Clapp,  
Colton,  
Douglas,

Messrs—

Fay,  
Flemington,  
Gayton,  
Gray,  
Harris,  
Hegge,  
Hoyt,  
Lowell,  
Meacham,  
McBride,

Messrs—

Noble,  
O'Brien,  
Parsons of Morton,  
Purcell,  
Ray,  
Rolfe,  
Rowe,  
Turner,  
Williams,  
Mr. President.

Those who voted in the negative were:

Messrs—

Allin,  
Bartlett of Griggs,  
Budge,  
Carothers,  
Chaffee,  
Elliott,  
Haugen,  
Johnson,  
Lauder,

Messrs—

Linwell,  
Mathews,  
McKenzie,  
Nomland,  
Paulson,  
Peterson,  
Powles,  
Pollock,  
Richardson,

Messrs—

Robertson,  
Sandager,  
Scott,  
Slotten,  
Spalding,  
Stevens,  
Wallace,  
Wellwood

Absent and not voting:

Messrs—	Messrs—	Messrs—
Almen,	Griggs,	Miller,
Appleton,	Holmes,	Moer,
Bean,	Leach,	Parsons of Rolette,
Best,	Lohnes,	Powers,
Clark,	Marrinan,	Selby,
Glick,	McHugh,	Shuman,
		Whipple.

And so the amendment as amended prevailed.

Mr. Turner moved to adjourn.

Which motion prevailed.

#### AFTERNOON SESSION.

The Convention assembled at 2 o'clock p. m. pursuant to adjournment.

Mr. President called Mr. Noble to the chair and took the floor to explain the charge made by Mr. Bennett in a speech at Grand Forks, and afterwards reiterated in certain newspapers, that on last Thursday evening he had prevented the reading of certain telegrams.

Mr. Parsons of Morton, offered the following resolution:

*Resolved*, That it is the sense of this Convention that we entirely exonerate the President of this Convention from the charge made against him by Mr. Bennett of Grand Forks, as reported in the Grand Forks Herald.

Ayes and nays demanded.

The roll being called there were ayes, 71; nays, none, viz:

Those voting in the affirmative were:

Messrs—	Messrs—	Messrs—
Allin,	Harris,	Paulson,
Appleton,	Haugen,	Peterson,
Bartlett of Dickey,	Hegge,	Powers,
Bartlett of Griggs,	Holmes,	Powles,
Bell,	Hoyt,	Purcell,
Bennett,	Johnson,	Pollock,
Best,	Lauder,	Ray,
Brown,	Leach,	Richardson,
Budge,	Linwell,	Robertson,
Camp,	Lohnes,	Rolfe,
Carland,	Lowell,	Rowe,
Carothers,	Marrinan,	Sandager,
Chaffee,	Mathews,	Scott,
Clapp,	Meacham,	Selby,
Clark,	McBride,	Shuman,
Colton,	McHugh,	Slotten,
Douglas,	McKenzie,	Spalding,
Elliott,	Miller,	Stevens,
Fay,	Moer,	Turner,
Flemington,	Noble,	Wallace,
Gayton,	Nomland,	Wellwood,
Glick,	O'Brien,	Whipple,
Gray,	Parsons of Morton,	Williams.
Griggs,	Parsons of Rolette,	

Absent and not voting:

Mr. Almen,                      Mr. Bean,                      Mr. Blewett.

Mr. Moer moved that the chief clerk be granted an opportunity to explain.

Which motion prevailed, and

The chief clerk made a statement to the effect that he had attempted to read the message referred to, but was prevented by members moving to adjourn.

Mr. Rolfe moved that the vote by which the amendment of the gentleman from Richland, providing that the Legislative Assembly may apportion senatorial districts into representative districts, was passed be reconsidered.

Mr. Purcell moved to lay the motion on the table.  
Ayes and nays demanded.

The roll being called there were ayes 18, nays 55, viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Appleton,	Carland,	McBride,
Bartlett of Dickey,	Douglas,	Noble,
Bell,	Flemington,	O'Brien,
Bennett,	Gray,	Powers,
Blewett,	Griggs,	Purcell,
Camp,	Marrinan,	Ray.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Allin,	Johnson,	Pollock,
Bartlett of Griggs,	Lauder,	Richardson,
Best,	Leach,	Robertson,
Brown,	Linwell,	Rolfe,
Budge,	Lohnes,	Rowe,
Carothers,	Lowell,	Sandager,
Chaffee,	Mathews,	Scott,
Clapp,	Meacham,	Selby,
Clark,	McHugh,	Shuman,
Colton,	McKenzie,	Slotten,
Elliott,	Miller,	Spalding,
Fay,	Moer,	Stevens,
Gayton,	Nomland,	Turner,
Glick,	Parsons of Morton,	Wallace,
Harris,	Parsons of Rolette,	Wellwood,
Haugen,	Paulson,	Whipple,
Hegge,	Peterson,	Williams,
Holmes,	Powles,	Mr. President.
Hoyt,		

Absent and not voting:

Mr. Alman,                      Mr. Bean.

And so the motion to lay on the table was lost.

Mr. Stevens moved to strike out the following words: "The Legislative Assembly shall have the power to apportion the senatorial districts into representative districts."

Which motion prevailed.

Section thirty-five (35) as amended was adopted.

Section thirty-six (36) was adopted.

Mr. Camp moved to strike out the word "officers" in line three of section thirty-seven (37).

Which motion prevailed, and

Section thirty-seven as amended was adopted.

Section thirty-eight (38) was adopted.

Mr. Stevens moved that section thirty-nine (39) be amended by adding at the close thereof the following words: "Unless he shall have resigned before his appointment."

Which motion was withdrawn.

Section thirty-nine (39), forty (40), forty-one (41), forty-two (42), forty-three (43) and forty-four (44) were adopted.

Mr. Johnson moved to strike out the words "five dollars per day" in section forty-five (45), and insert therefor "five hundred dollars per session."

The recommendations of the committee as to section forty-five (45), were concurred in.

Ayes and nays demanded on Mr. Johnson's motion.

The roll being called there were ayes 11; nays 62, viz.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Appleton,	Johnson,	Peterson,
Bartlett of Griggs,	McBride,	Pollock,
Bennett,	Nomland,	Mr. President.
Gray,	Parsons of Morton,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Allin,	Harris,	Powers,
Bartlett of Dickey,	Haugen,	Powles,
Bell,	Hegge,	Puroell,
Best,	Holmes,	Ray,
Blewett,	Hoyt,	Richardson,
Brown,	Lauder,	Robertson,
Budge,	Leach,	Rolfe,
Camp,	Linwell,	Rowe,
Carland,	Lohnes,	Sandager,
Carothers,	Lowell,	Scott,
Chaffee,	Marrinan,	Selby,
Colton,	Mathews,	Shuman,
Clapp,	Meacham,	Slotten,
Clark,	McHugh,	Spalding,
Douglas,	McKenzie,	Stevens,
Elliott,	Miller,	Turner,
Fay,	Moer,	Wallace,
Flemington,	Noble,	Wellwood,
Gayton,	O'Brien,	Whipple,
Glick,	Parsons of Rolette,	Williams.
Griggs,	Paulson,	

Absent and not voting:

Mr. Almen,                      Mr. Bean.

Messrs. Parsons of Morton and Spalding explaining their votes.

And so the amendment was lost.

Section forty-five (45), as recommended to be amended by the committee, was adopted.

Sections forty-six (46), forty-seven (47), forty-eight (48), forty-nine (49), fifty (50), fifty-one (51) and fifty-two (52) were adopted.

The letter "m" in line two of section fifty-three (53) was stricken out, and the word "noon" substituted therefor, and as thus amended the section was adopted.

Sections fifty-four (54), fifty-five (55), fifty-six (56), fifty-seven (57), fifty-eight (58), fifty-nine (59), sixty (60), sixty-one (61), sixty-two (62), sixty-three (63), sixty-four (64), sixty-five (65), sixty-six (66), sixty-seven (67), sixty-eight (68), were adopted.

Mr. Pollock moved that subdivision fifteen (15) of section sixty-nine (69) be stricken out.

Which motion was lost.

Sections sixty-nine (69) and seventy (70) were adopted.

Section forty-three (43) was amended by striking out the first word of the section "A" and substituting therefor the word "Any."

Mr. Rolfe moved that Article II be adopted as amended.

Which motion prevailed.

### ARTICLE III.

The recommendations of the committee as to section seventy-one (71) were concurred in.

Mr. Rolfe moved to strike out the word "who" in the fourth line of section seventy-one (71).

Which motion prevailed and

Section seventy-one (71) as amended was adopted.

Mr. Rowe moved to strike out all after the word "territory" in line five of section seventy-two (72).

Ayes and nays demanded.

The roll being called there were ayes, 13; nays, 55, viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Allin,	Meacham,	Rowe,
Clapp,	McKenzie,	Shuman,
Colton,	Miller,	Slotten,
Lauder,	Pollock,	Mr. President.
Leach,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Appleton,	Gray,	Parsons of Rolette,
Bartlett of Dickey,	Griggs,	Paulson,
Bartlett of Griggs,	Harris,	Peterson,
Bell,	Haugen,	Powers,
Rennett,	Hegge,	Powles,

Best,  
Blewett,  
Brown,  
Budge,  
Camp,  
Carland,  
Carothers,  
Chaffee,  
Clark,  
Douglas,  
Elliot,  
Fay,  
Gayton,  
Glick,

Holmes,  
Hoyt,  
Johnson,  
Linwell,  
Lohnes,  
Lowell,  
Marrinan,  
Matthews,  
McBride,  
Moer,  
Nomland,  
O'Brien,  
Parsons of Morton,

Purcell,  
Ray,  
Rolfe,  
Sandager,  
Scott,  
Selby,  
Spalding,  
Stevens,  
Turner,  
Wallace,  
Wellwood,  
Whipple,  
Williams,

Absent and not voting;

Messrs—  
Almen,  
Bean,  
Flemington,

Messrs—  
McHugh  
Noble,

Messrs—  
Richardson,  
Robertson.

And so the motion was lost.

Mr. Spalding moved to amend section seventy-two by striking out the words "he be" and inserting the words "any governor."

Which motion was lost, and  
Section seventy-two was adopted.

Mr. Pollock moved that the recommendations of the committee as to section seventy-three be concurred in.

Which motion prevailed, and the section as recommended to be amended by the committee was adopted.

Mr. Parsons of Morton offered the following amendment to section seventy-two.

Add after word "elected," "provided that no member of the Constitutional Convention shall be eligible to the office of State Senator or Representative for one year after its adjournment."

Which amendment was withdrawn.

Section seventy-four was adopted.

Mr. Camp moved that the recommendations of the committee as to section seventy-five (75) be concurred in.

Which motion prevailed and the section as recommended to be amended by the committee was adopted.

Mr. Miller moved that the recommendations of the committee as to section seventy-seven (77) be concurred in.

Mr. Johnson moved to strike out the word "they" in the last line of section seventy-seven (77) and insert in lieu thereof the words "the Senate."

Mr. Moer moved to amend the amendment by striking out the word "Senate" and insert the word "it."

Which amendment was lost.

And the original amendment being put was lost.

And the section as recommended to be amended by the committee was adopted.



Section seventy-eight (78) was adopted.

Mr. Flemington moved that section seventy-nine (79) as recommended to be amended by the committee be adopted.

Which motion prevailed.

Mr. Miller moved to strike out the word "present" and insert the word "elected" in lieu thereof wherever it occurs in that section and is used in that sense.

Which motion prevailed and the section as amended was adopted.

Section eighty (80) was adopted.

Mr. Camp moved to adopt the recommendations of the committee, as to section eighty-one (81.)

Which motion prevailed and the section as recommended to be amended by the committee was adopted.

Mr. Clapp moved that the recommendations of the committee as to section eighty-two [82] be adopted,

Which motion prevailed.

Mr. Purcell moved to amend the section by inserting the word "and" after the word "railroads" in the fifth line; also in the same line insert the word "one" between the words "and" and "commissioners."

Which motion prevailed.

Mr. Purcell moved that the words "and citizens of the United States" be inserted in the ninth line after the word "years."

Which motion prevailed.

Section eighty-two [82] as amended was adopted.

Section eighty-three [83] was adopted.

Mr. Wallace moved to amend section eighty-four [84] by striking out the words "the Lieutenant Governor shall receive an annual salary of one thousand dollars" and inserting therefor the words "the compensation of the Lieutenant Governor shall be double that of a State Senator."

Ayes and nays demanded.

The roll being called, there were ayes 28; nays 33, viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Allin,	Haugen,	Powers,
Appleton,	Hoyt,	Pollock,
Bartlett of Griggs,	Johnson,	Richardson,
Bennett,	Leach,	Robertson,
Best,	Mathews,	Slotten,
Blewett,]	McBride,	Spalding,
Carothers,	O'Brien,	Turner,
Clark,	Parsons of Morton,	Wallace,
Elliott,	Parsons of Rolette,	Wellwood,
Flemington,	Peterson,	

Those who voted in the negative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Bartlett of Dickey,	Harris,	Noble,
Budge,	Hegge,	Paulson,
Camp,	Holmes,	Powles,
Carland,	Lauder,	Purcell,
Chaffee,	Linwell,	Ray,
Clapp,	Lowell,	Rowe,
Colton,	Meacham,	Scott,
Fay,	McHugh,	Selby,
Gayton,	McKenzie,	Shuman,
Glick,	Miller,	Williams,
Gray,	Moer,	Mr. President.

Absent and not voting:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Almen,	Griggs,	Rolfe,
Bean,	Lohnes,	Sandager,
Bell,	Marrinan,	Stevens,
Brown,	Nomland,	Whipple,
Douglas,		

And so the amendment was lost.

Mr. Bartlett of Griggs, moved to amend section eighty-four (84) by striking out the words "and attorney general" in line six, and inserting the same words after the words "lieutenant governor" in line three; also in line three insert the word "each" after the word "shall."

Ayes and nays demanded.

The roll being called, there were ayes, 10: nays, 52, viz:

Those who voted in the affirmative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Allin,	Mathews,	Turner,
Bartlett of Griggs,	Richardson,	Wallace,
Best,	Slotten,	Wellwood,
Elliott,		

Those who voted in the negative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Bartlett of Dickey,	Haugen,	Paulson,
Blewett,	Holmes,	Powers,
Budge,	Hoyt,	Powles,
Camp,	Johnson,	Purcell,
Carland,	Lauder,	Pollock,
Carothers,	Linwell,	Ray,
Chaffee,	Lowell,	Robertson,
Clapp,	Meacham,	Rolfe,
Clark,	McHugh,	Rowe,
Colton,	McKenzie,	Scott,
Douglas,	Miller,	Selby,
Fay,	Moer,	Shuman,
Flemington,	Noble,	Spalding,
Gayton,	Nomland,	Stevens,
Glick,	O'Brien,	Whipple,
Gray,	Parsons of Rolette,	Williams,
Griggs,	Parsons of Morton,	Mr. President.
Harris,		

Absent and not voting:

Messrs—  
Almen,  
Appleton,  
Bean,  
Bell,  
Bennett,

Messrs—  
Brown,  
Hegge,  
Leach,  
Lohnes,

Messrs—  
Marrinan,  
McBride,  
Peterson,  
Sandager,

And so the amendment was lost.

Section eighty-four (84) was adopted.

Mr. Colton moved that Article III, as amended be adopted.

Which motion prevailed.

The President announced an informal recess for ten minutes.

#### ARTICLE IV.

Mr. Noble moved that the sections of Article IV be adopted without reading, except in cases where there is an objection or a recommendation of amendment by the committee.

Which motion was lost.

Sections eighty-three (83), eighty-six (86) and eighty-seven (87) were adopted.

Mr. Miller moved that the recommendation of the committee as to section eighty-eight [88] be adopted.

Mr. Noble moved as a substitute that the section be amended to read "Until otherwise provided by law three terms of the supreme court shall be held each year at the seat of government."

Mr. Spalding moved a call of the house.

Mr. Scott moved that further proceedings under the call of the house be dispensed with.

Which motion was lost.

Mr. Spalding moved a call of the house.

Which motion prevailed, and

The roll was called.

All members present except Messrs. Almen, Bean, Budge, Gayton, Glick, Griggs, Lohnes, Ray, Sandager and Stevens.

Messrs. Almen and Bean being excused.

Mr. Spalding moved to dispense with further proceedings under the call.

Which motion was lost.

Mr. Johnson raised the point of order that only a majority of those voting was necessary to carry the motion.

Mr. President decided the point not well taken.

Mr. Moer appealed from the decision of the chair.

Which appeal was not sustained.

Mr. Moer moved to adjourn.

Which motion was lost.

Mr. Flemington moved that further proceedings under the call be dispensed with.

Which motion was lost.

Mr. Camp moved to adjourn.

Which motion prevailed, and

The Convention adjourned.

### EVENING SESSION.

The Convention assembled at 8 o'clock p. m. pursuant to adjournment.

Mr. Bartlett of Griggs, moved that when we adjourn it be to meet again at 10 o'clock to-morrow morning.

Mr. Miller moved to amend by substituting "2 o'clock to-morrow afternoon" for "10 o'clock to-morrow morning."

Which amendment was lost, and

The original motion being put, prevailed.

Ayes and nays were demanded on the substitute proposed by Mr. Noble, amending section eighty-eight [88] so that it will read "Until otherwise provided by law three terms of the supreme court shall be held each year at the seat of government."

The roll being called, there were ayes, 21; nays, 49, viz:

Those who voted in the affirmative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Allin,	Elliott,	Nomland,
Appleton,	Hegge,	O'Brien,
Bartlett of Griggs,	Lohnes,	Parsons of Rolette,
Bell,	Marrinan,	Powers,
Best,	McBride,	Richardson,
Brown,	Moer,	Robertson,
Douglas,	Noble,	Selby.

Those who voted in the negative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Bartlett, of Dickey,	Holmes,	Purcell,
Blewett,	Hoyt,	Pollock,
Budge,	Johnson,	Ray,
Camp,	Lauder,	Rolfe,
Carland,	Leach,	Rowe,
Carothers,	Linwell,	Sandager,
Chaffee,	Lowell,	Scott,
Clapp,	Mathews,	Shuman,
Clark,	Meacham,	Slotten,
Colton,	McHugh,	Spalding,
Fay,	McKenzie,	Stevens,
Gayton,	Miller,	Turner,
Glick,	Parsons of Morton,	Wellwood,
Gray,	Paulson,	Whipple,
Griggs,	Peterson,	Williams,
Harris,	Powles,	Mr. President.
Haugen,		

Absent and not voting:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Almen,	Flemington,	Wallace,
Bean,		

Mr. Bennett being excused.

And so the substitute was lost.

Mr. Miller moved that section eighty-eight [88] as recommended to be amended by the committee, be adopted.

Which motion prevailed.

Mr. Moer moved that the vote by which Articles I, II and III were adopted be reconsidered and that the vote to reconsider be laid on the table.

Which motion prevailed.

Section eighty-nine [89] was adopted.

Mr. Spalding moved to amend section ninety [90] by inserting the word "not" after the word "shall" in the last line of the section.

Mr. Stevens moved to lay the motion on the table.

Which motion prevailed.

Section ninety [90] was adopted.

Mr. Purcell moved that the recommendations of the committee as to section ninety-one, be concurred in.

Which motion prevailed, and

The section as recommended to be amended by the committee, was adopted.

Section ninety-two [92] was adopted.

Mr. Johnson moved to amend section ninety-three by inserting after the word "clerk" the words "of the supreme court who shall be elected by the people for the term of four years."

Mr. Moer moved to lay the motion on the table.

Ayes and nays were demanded.

The roll being called there were ayes 45, nays 27, viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Bartlett of Griggs,	Gray,	Noble,
Bartlett of Dickey,	Griggs,	O'Brien,
Bell,	Harris,	Parsons of Rolette,
Blewett,	Holmes,	Paulson,
Brown,	Hoyt,	Powers,
Budge,	Lauder,	Powles,
Camp,	Leach,	Purcell,
Carland,	Lohnes,	Pollock,
Chaffee,	Lowell,	Ray,
Clapp,	Marrinan,	Robertson,
Clark,	Meacham,	Rolfe,
Fay,	McHugh,	Rowe,
Flemington,	McKenzie,	Shuman,
Gayton,	Miller,	Spalding,
Glick,	Moer,	Wallace.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Allin,	Hegge,	Scott,
Appleton,	Johnson,	Selby,
Bennett,	Linwell,	Slotten,

Best,  
Carothers,  
Colton,  
Douglas,  
Elliott,  
Haugen,

Mathews,  
MoBride,  
Nomland,  
Parsons of Morton,  
Peterson,  
Sandager,

Stevens,  
Turner,  
Wellwood,  
Whipple,  
Williams,  
Mr. President.

Absent and not voting:

Mr. Alman,

Mr. Bean,

Mr. Richardson.

Mr. Leach explaining his vote.

And so the motion to lay on the table prevailed.

Section ninety-three [93] as reported from the committee was adopted.

Mr. Blewett moved that section ninety-four [94] be amended by striking out the word "thirty" in line two and substituting therefore the words "twenty-eight."

Which motion was lost.

Mr. Stevens moved that the vote just taken be reconsidered, and the motion to reconsider be laid on the table.

Which motion prevailed.

Section ninety-four (94) as reported from the committee was adopted.

Sections ninety-five [95] and ninety-six [96] were adopted.

Mr. Flemington moved that the recommendations of the committee as to section ninety-seven (97) be concurred in.

Which motion prevailed, and

The section as recommended to be amended by the committee was adopted.

Sections ninety-eight (98) and ninety-nine (99) were adopted.

Mr. Pollock moved that section one hundred be amended by striking out the word "interested" in the second line and substituting the word "disqualified."

Which motion was lost, and

The section as reported by the committee was adopted.

Sections one hundred and one (101), one hundred and two (102), one hundred and three (103), and one hundred and four (104) were adopted.

Mr. Camp moved that section one hundred and five (105) be amended by striking out in district No. 4, in the first line, the words "of all."

Which motion prevailed.

And the section as amended was adopted.

Mr. Carland moved that the words "each within its territorial limits" be stricken out of section one hundred and three [103].

Mr. Parsons of Morton moved as a substitute that the section be amended by inserting after the words "conferred by law" in the fourth line "and whenever a district judge is absent, sick

or disqualified any other district judge may have jurisdiction during such absence, sickness or disqualification in remedial writs."

Which substitute was lost.

The ayes and nays were demanded on Mr. Carland's motion.

The roll being called, there were ayes, 23; nays, 48, viz:

Those who voted in the affirmative were;

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Blewett,	Leach,	Powers,
Camp,	Marrinan,	Purcell,
Carland,	Meacham,	Pollock,
Chaffee,	Miller,	Ray,
Fay,	Moer,	Scott,
Flemington,	Noble,	Spaulding,
Griggs,	O'Brien,	Whipple.
Hoyt,	Parsons of Rolette,	

Those who voted in the negative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Allin,	Glick,	Peterson,
Appleton,	Gray,	Powles,
Bartlett of Dickey,	Harris,	Richardson,
Bartlett of Griggs,	Haugen,	Robertson,
Bell,	Hegge,	Rolfe,
Bennett,	Johnson,	Rowe,
Best,	Lander,	Sandager,
Brown,	Linwell,	Selby,
Budge,	Lohne,	Shuman,
Carothers,	Mathews,	Slotten,
Clapp,	McBride,	Stevens,
Clark,	McHugh,	Turner,
Colton,	McKenzie,	Wallace,
Douglas,	Nomland,	Wellwood,
Elliot,	Parsons of Morton,	Williams,
Gayton,	Paulson,	Mr. President.

Absent and not voting:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Almen,	Holmes,	Lowell.
Bean,		

And so the motion was lost.

Mr. Stevens moved that section one hundred and three (103) be adopted.

Which motion prevailed, and

The section was adopted.

Mr. Bartlett, of Griggs, moved to reconsider the vote just taken and lay the motion to reconsider on the table.

Mr. Lauder moved the previous question and the question being, shall the main question be now put, a vote was taken and prevailed.

Mr. Selby called for a division of the main question, which being divided the motion to reconsider prevailed, and the ayes and nays were demanded on the second part; i. e., to lay on the table.

The roll being called there were ayes 27 nays, 43, viz:

Those who voted in the affirmative were:

<p><b>Messrs—</b>                  Allin,                  Bartlett of Griggs,                  Bennett,                  Best,                  Brown,                  Carothers,                  Colton,                  Glick,                  Gray.</p>	<p><b>Messrs—</b>                  Harris,                  Haugen,                  Hegge,                  Lauder,                  Linwell,                  Mathews,                  McBride,                  McHugh,                  Nomland,</p>	<p><b>Messrs—</b>                  Parsons of Morton,                  Paulson,                  Peterson,                  Rolfe,                  Sandager,                  Slotten,                  Stevens,                  Turner,                  Mr. President.</p>
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Those who voted in the negative were:

<p><b>Messrs—</b>                  Appleton,                  Bartlett of Dickey,                  Blewett,                  Budge,                  Camp,                  Carland,                  Chaffee,                  Clapp,                  Clark,                  Elliott,                  Fay,                  Flemington,                  Gayton,                  Griggs,                  Holmes,</p>	<p><b>Messrs—</b>                  Hoyt,                  Leach,                  Lohnes,                  Lowell,                  Marrinan,                  Meacham,                  McKenzie,                  Miller,                  Moer,                  Noble,                  O'Brien,                  Parsons of Rollette,                  Powers,                  Powles,</p>	<p><b>Messrs—</b>                  Purcell,                  Pollock,                  Ray,                  Richardson,                  Robertson,                  Rowe,                  Scott,                  Selby,                  Shuman,                  Spalding,                  Wallace,                  Wellwood,                  Whipple,                  Williams.</p>
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Absent and not voting:

<p><b>Messrs—</b>                  Almen,                  Bean,</p>	<p><b>Messrs—</b>                  Bell,                  Douglas,</p>	<p><b>Messrs—</b>                  Johnson,</p>
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And so the motion to lay on the table was lost.

Mr. Flemington moved that the further consideration of section one hundred and three [103] be postponed, and that it be made a special order for 2 o'clock to-morrow.

Mr. Rolfe moved as a substitute that the section be adopted as reported from the committee.

Which motion was withdrawn and the original motion prevailed.

Sections one hundred and six [106], one hundred and seven [107], one hundred and eight [108], one hundred and nine [109] and one hundred and ten (110) were adopted.

Mr. President called Mr. Parsons of Morton, to the chair.

Mr. Spalding moved that the recommendations of the committees as to section one hundred and eleven (111) be concurred in.

Which motion prevailed, and

The section, as recommended to be amended by the Committee, was adopted.

Sections one hundred and twelve (112) one hundred and thir-



teen (113), one hundred and fourteen (114) and one hundred and fifteen were adopted.

Mr. Scott moved that the further consideration of section one hundred and sixteen (116) be postponed, and that it be made a special order for two o'clock tomorrow, August 15.

Which motion prevailed.

Sections one hundred and seventeen (117), one hundred and eighteen (118), one hundred and nineteen (119) and one hundred and twenty (120) were adopted.

Mr. Rolfe moved to amend section one hundred and eleven (111) by inserting the word "exclusive" after the word "have" in the first line.

Mr. Moer moved to amend by including also the word "original."

Which amendment was accepted, and

The original motion, as amended, was adopted.

Mr. Selby moved that Article IV, as amended, with the exceptions of sections one hundred and three (103) and one hundred and sixteen (116), which were made especial order be adopted.

Which motion prevailed.

Mr. Selby moved to adjourn.

Which motion prevailed.

J. G. HAMILTON,  
Chief Clerk.

THURSDAY, AUGUST 15, 1889.

The Convention assembled at 10 o'clock a. m., pursuant to adjournment.

The President presiding.

Prayer was offered by the Chaplain.

The roll was called, all members absent being excused.

The Journal of August 13 was read, corrected and approved.

Mr. Pollock moved that the reading of communications and roll calls be omitted from the reading of the Journal.

Which motion prevailed.

PETITIONS, TELEGRAMS AND COMMUNICATIONS.

HOPE, N. D., 13, 1889.

*To the Hon. D. E. Wallace:*

Inclosed please find copy of preamble and resolutions adopted unanimously at a meeting of citizens of Steele county, held on Monday evening, August 12, 1889, at the Hope opera house. The officers of the meeting were instructed to present you with a copy and request that you make the same known to the Convention.

JOHN J. WAMBERG,  
Chairman.

WHEREAS, A majority of the members of the Constitutional Convention now in session at Bismarck have, by an assumption of arbitrary powers not intended by the people of North Dakota to be vested in them, located a number of public institutions; and,

WHEREAS, We believe that improper influences have been brought to bear by corporations and others affected in the location of said buildings and institutions; and,

WHEREAS, We believe that the location of the capital of North Dakota is a prerogative of the people, and should be left to them to be decided by their suffrages; and,

WHEREAS, Many of the public buildings and institutions will not be needed for many years to come, and in view of the further fact that large portions of the state of North Dakota are at present sparsely settled, and that no action should be taken at the present time which may prejudice their rights and interests in the future; and,

WHEREAS, The action of said majority of the members of the Constitutional Convention, if persisted in, will endanger the adoption of the Constitution and thus delay statehood, as well as place the people at great expense should the Convention have to again assemble; therefore, be it

*Resolved,* That we, the people of Steele county, in public meeting assembled, do hereby protest against the adoption of said article known as File 143, and ask that the same be stricken from the Constitution before its final adoption; and we respectfully ask our delegates to use all honorable means to

defeat the final adoption of the Constitution unless said clause is stricken out: and, be it further

*Resolved*, That we hereby pledge ourselves to do all in our power to defeat the ratification of the Constitution when submitted to a vote of the people, unless our wishes in this respect are complied with.

R. H. SIMPSON,  
Secretary.

PEMBINA, N. D., Aug. 13, 1889.

*To the President of the Constitutional Convention:*

We, the undersigned residents of Pembina county, do protest against the action of the Constitutional Committee in permanently locating the public institutions of North Dakota, and do pray that they reconsider the action that they have taken.

F. A. MILLER, and 285 others.  
WHAPEYON, N. D., Aug. 14, 1889.

*To the Hon. Andrew Slotten:*

The following resolutions were unanimously adopted here last night: We, the citizens of Richland county in mass meeting assembled do hereby desire to express our disapproval of the location of the public institutions of the coming State of North Dakota by the Constitutional Convention and the farming out of the state lands for such institutions and give therefore the following reasons: First, That the members of such convention were elected for the sole purpose of framing a Constitution for the whole state and not to exercise ingenuity in furthering the interest of particular localities. Second, That the principle of locating such institutions by this convention is unjust in its inception and pernicious in its results. Third, That such locations are made by combinations for political schemes and private gains. Fourth, The Constitutional Convention has no authority to dispose of a hundred and seventy thousand acres parcelled out as are expressly granted for such charitable and educational purposes as the legislature may provide and can only be granted by the legislature. Fifth, That the granting of the last mentioned lands was inserted for the purpose of deceiving members into voting for an otherwise distasteful measure in order to secure some home institutions. Therefore, be it

*Resolved*, That we express our approval of the course of our delegates who voted against such measure and that we respectfully request our other delegate to change his vote thereon and that they use their united endeavors to defeat the same.

H. J. McCUMBER,  
JOHN NELSON,  
C. N. WOOD,  
Committee on Resolutions.

ST. THOMAS, N. D., Aug. 13, 1889.

*To the President of the Constitutional Convention:*

A large and very enthusiastic condemnation meeting of the residents of this city and vicinity was held at the opera house last evening.

Wm. McMurchie was elected chairman and A. L. Miller secretary.

After a number of speeches were made by leading citizens condemning the action taken by the Constitutional Convention, and in particular by the home delegates, Powles and Holmes, the chair appointed a committee of seven to draft resolutions.

The resolutions condemned in the severest terms the action of the forty-four, and extolled the bravery of the thirty who, in spite of all opposition and offers of "boodle," worked and voted for what they knew was right and what their constituents desired.

The resolution also embodied the sentiment that if the Constitution, when presented in October, contained any clause permanently locating the public institutions of North Dakota, every just effort would be made to defeat its adoption.

A petition asking the Convention to reconsider their action on this matter has been signed by two hundred of the citizens of this city and vicinity and will be sent to-day to the Convention.

WHEREAS, We the people of southern Pembina county, have met in mass convention to take action on the matter of the location of public institutions by the Constitutional Convention; now, therefore,

*Resolved*, That we believe our Constitutional Convention is exceeding its duties and powers in presuming to permanently locate our public institutions, and we pledge ourselves to use all just means to defeat a Constitution containing clauses relating to the same.

*Resolved*, That we consider the action of the forty-four delegates who favored the resolution as unwarrantable and without the color of law, and look upon them as usurpers of our inherent rights and condemn them as unfit to represent a free and enlightened people living under a republican government.

*Resolved*, That we commend the thirty delegates who, in the face of bribery and corruption, have refused to exercise powers not delegated to them, and extend to them approbations greater than words can convey.

GRAFTON, N. D., August 12, 1889.

*To the President of the Constitutional Convention:*

At a meeting of the Republican and Democratic County Central Committees, held this day in the city of Grafton, county of Walsh, North Dakota, the following resolutions were unanimously adopted:

WHEREAS, The Constitutional Convention for the State of North Dakota has included in the Constitution an article permanently locating the various public institutions for the State of North Dakota; and

WHEREAS, The location of said institutions by the Constitutional Convention is without precedent and was not contemplated by the electors of North Dakota when they selected their delegates to attend said Convention; and

WHEREAS, We believe it to be the right of the people to decide when and where all public institutions for the state of North Dakota shall be located; and

WHEREAS, We believe that the location of the institutions as contemplated by the Constitution will be subversive to the best interests of the people of the State of North Dakota, and will tend to produce extravagant and premature appropriations for public institutions long before they are needed, and introduce a dangerous element into the Legislative deliberations of the new State of North Dakota, at this critical formative period of its history; and

WHEREAS, The unanimous sentiment of the people of Walsh county, North Dakota, as conclusively shown by the fact that not a single advocate of location of the public institutions has yet been found in Walsh county, although several public meetings have been held to discuss this matter, and the members of both committees have endeavored to faithfully ascertain the sentiments of the electors of the county of Walsh; and

WHEREAS, It is the unanimous opinion of the members of the said County Central Committees that the electors of Walsh county, North Dakota, without regard to party, and in the exercise of the best judgment, firmly believe that the adoption of the Constitution with the article in it locating the public institutions would prove a most serious calamity for the new State of North Dakota, and that the said electors would prefer to remain a territory rather than become a state under such conditions it is, therefore,

*Resolved*, By the said Republican and Democratic County Central Committees for the county of Walsh, that in deference of the wishes and opinions of the entire people of Walsh county, Dakota, that if the said article locating the public institutions be not stricken from the Constitution, they will order each and every ballot printed for the coming election in the county of Walsh to be printed "Against the Constitution," and will use every endeavor to secure the defeat of the Constitution at the polls, firmly believing it to be the less of the two evils.

The committees further state that it is their unbiased opinion gathered from each and every section of Walsh county that there will be a unanimous

vote recorded against the Constitution in its present form, and that not one hundred out of the four thousand votes of Walsh county will be cast in its favor.

In testimony whereof the said committees have caused these resolutions to be subscribed to by their respective chairmen and secretaries.

	O. E. SAUTER
Chairman of the Walsh County	Central Republican Committee.
	M. K. MARRINAN,
Chairman of the Walsh County	Democratic Central Committee.
	D. W. YORKEY,
Secretary of the Walsh County	Republican Central Committee.
	WM. J. HUGHES,
Secretary of the Walsh County	Democratic Central Committee.

Mr. Camp moved that the reading of the report of the Committee on Accounts and Expenses be omitted.

Which motion prevailed.\*

Mr. Rolfe moved that all communications read be referred to the committee appointed yesterday.

Which motion prevailed.

Mr. Spalding moved that the resolution on page 7 of the journal of July 17th, as amended on page 5 of the Journal of July 18th, be adopted with the exception of the figure "6" in the fourth line from the bottom which shall be changed to "8."

Ayes and nays demanded.

The roll being called there were ayes, 21; nays, 45; viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Bartlett of Dickey,	Gray,	Parsons of Morton,
Bennett,	Harris,	Peterson,
Blewett,	Hoyt,	Pollock,
Chaffee,	Johnson,	Rolfe,
Clapp,	Lauder,	Sandager,
Elliott,	Meacham,	Scott,
Gayton,	McKenzie,	Spalding.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Allin,	Griggs,	Powles,
Appleton,	Haugen,	Purcell,
Bartlett of Griggs,	Hegge,	Ray,
Bell,	Linwell,	Robertson,
Best,	Lowell,	Richardson,
Brown,	Mathews,	Rowe,
Budge,	McBride,	Selby,
Carland,	McHugh,	Shuman,
Carothers,	Miller,	Slotten,
Clark,	Moer,	Stevens,
Colton,	Noble,	Turner,
Douglas,	Nomland,	Wallace,
Fay,	O'Brien,	Wellwood,
Flemington,	Parsons of Rolette,	Whipple,
Glick,	Powers,	Williams,
		Mr. President.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Alman,	Holmes,	Marrinan,
Bean,	Leach,	Paulson,
Camp,	Lohnes,	

And so the motion was lost.

Mr. Stevens moved to reconsider the vote by which Mr. Spalding's motion was lost.

Mr. Purcell moved to lay the motion to reconsider on the table.

Mr. Stevens raised the point of order that the motion to lay on the table was not properly before the house, he having given notice that immediate action was not desired on the motion to reconsider, but simply desired it to become a matter of record.

The President decided the point of order not well taken, and the motion to lay on the table being put, prevailed.

Mr. Clapp moved to proceed to the consideration of Article V.

Which motion prevailed.

Section one hundred and twenty-one (121) was adopted.

Mr. Bartlett moved that the letter "s" on the word "crimes," in the third line of section one hundred and twenty-two (122) be stricken out; also that the words "without regard to sex" in the fourth line of the same section be stricken out.

Which motion was lost.

Mr. Parsons of Morton, moved that the recommendations of the committee be concurred in.

Which motion prevailed, and

The section as recommended to be amended by the committee was adopted.

Section one hundred and twenty-three (123), one hundred and twenty-four (124), one hundred and twenty-five (125) and one hundred and twenty-six (126) were adopted.

Mr. Turner moved that the recommendation of the committee as to section one hundred and twenty-seven be concurred in.

Which motion prevailed.

And the section as recommended to be amended by the committee was adopted.

Mr. Clapp moved that the words "non compos mentis" be printed in italics.

Which motion prevailed.

Mr. Rowe moved to amend section one hundred and twenty-eight (128) by striking out all after the word "territory" the following words: "May vote for all school officers and upon all questions pertaining solely to school matters and be eligible to any school office."

Which motion prevailed.

Mr. Bartlett of Dickey moved to further amend the section by inserting after the word "any," in line one, the word "single."

Mr. Moer moved to amend the motion by substituting for the word "single" the word "married."

Mr. Stevens moved as a substitute for all other motions before the house that the section as amended be adopted.

Mr. Bartlett moved the previous question, and the question being shall the main question be now put, and being taken, prevailed.

Ayes and nays were demanded on the motion of Mr. Stevens.

The roll being called there were ayes, 63; nays, 6, viz:

Those voting in the affirmative were:

Messrs—	Messrs—	Messrs—
Allin,	Harris,	Peterson,
Appleton,	Haugen,	Powles,
Bartlett of Dickey,	Hegge,	Purcell,
Bartlett of Griggs,	Holmes,	Pollock,
Best,	Hoyt,	Ray,
Blewett,	Johnson,	Richardson,
Brown,	Lauder,	Robertson,
Budge,	Leach,	Rolfe,
Camp,	Linwell,	Rowe,
Carland,	Lowell,	Sandager,
Carothers,	Mathews,	Scott,
Chaffee,	Meacham,	Shuman,
Clapp,	McBride,	Slotten,
Clark,	McKenzie,	Spalding,
Colton,	Miller,	Stevens,
Elliott,	Moer,	Turner,
Fay,	Noble,	Wallace,
Gayton,	Nomland,	Wellwood,
Glick,	O'Brien,	Whipple,
Gray,	Parsons of Morton,	Williams,
Griggs,	Parsons of Rolette,	Mr. President.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Bell,	Douglas,	Powers,
Bennett,	Paulson,	Selby.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Almen,	Flemington,	Marrinan,
Bean,	Lohnes,	McHugh.

And so the substitute prevailed.

Section one hundred and twenty-nine (129) as amended was adopted.

Mr. Parsons of Morton, moved that what is known as "Council Bill No. 60" be added to section one hundred and twenty-nine (129).

Mr. Stevens moved as a substitute that the section be adopted as reported from the committee.

Which motion was ruled out of order.

Mr. Spalding moved to lay the motion of Mr. Parsons on the table.

Mr. Noble raised the point of order that Mr. Spalding's motion

was out of order inasmuch as the roll call had been commenced, and moved the previous question. The question being, shall the main question be now put, was put and prevailed.

Ayes and nays were demanded on the motion of Mr. Parsons.

The roll being called there were ayes, 14; nays, 49, viz:

Those who voted in the affirmative were:

Messrs—

Appleton,  
Best,  
Colton,  
Douglas,  
Gray,

Messrs—

Griggs,  
Lauder,  
Linwell,  
McBride,  
Parsons of Morton,

Messrs—

Powers,  
Richardson,  
Turner,  
Mr. President.

Those who voted in the negative were:

Messrs—

Allin,  
Bartlett of Dickey,  
Bartlett of Griggs,  
Rennett,  
Blewett,  
Brown,  
Budge,  
Camp,  
Carland,  
Carothers,  
Chaffee,  
Clapp,  
Clark,  
Elliott,  
Fay,  
Gayton,

Messrs—

Harris,  
Haugen,  
Hegge,  
Holmes,  
Hoyt,  
Johnson,  
Leach,  
Lowell,  
Matthews,  
Meacham,  
McKenzie,  
Miller,  
Noble,  
Nomland,  
O'Brien,  
Paulson,

Messrs—

Peterson,  
Purcell,  
Pollock,  
Robertson,  
Rolfe,  
Rowe,  
Sandager,  
Scott,  
Selby,  
Shuman,  
Slotten,  
Spalding,  
Stevens,  
Wellwood,  
Whipple.

Absent and not voting:

Messrs—

Almen,  
Bean,  
Bell,  
Flemington,

Messrs—

Glick,  
Lohnes,  
Marrinan,  
McHugh,

Messrs—

Parsons of Rolette,  
Powles,  
Ray.

Messrs. Moer, Wallace and Williams being excused.

And so the amendment was lost.

Mr. Williams offered the following substitute for section one hundred and twenty-nine (129):

"The secrecy of the ballot shall be preserved inviolate; and the Legislative Assembly shall pass suitable laws to secure the same. All ballots shall be printed, distributed and delivered at the polls to electors for voting, at public expense and under public supervision and at each polling place there shall be provided a sufficient number of booths or compartments, in which the electors singly shall prepare their ballots in secret."

Mr. Lauder moved to lay the substitute on the table.

Mr. Noble moved to adjourn.

Which motion prevailed.

#### AFTERNOON SESSION.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.



Ayes and nays demanded on the motion of Mr. Lauder to lay the substitute offered by Mr. Williams on the table.

Mr. Moer moved a call of the house.

Which motion prevailed and the roll was called.

All members were present except Messrs. Powers, Sandager and Robertson.

Mr. Paulson being excused.

Mr. Lauder moved that further proceedings under the call be dispensed with.

Which motion prevailed.

The roll being called, there ayes, 57; nays, 16; viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Allin,	Fay,	O'Brien,
Almen,	Flemington,	Parsons of Rolette,
Bartlett of Dickey,	Gayton,	Peterson,
Bartlett of Griggs,	Glick,	Powers,
Bean,	Griggs,	Purcell,
Bell,	Haugen,	Pollock,
Best,	Hegge,	Ray,
Blewett,	Holmes,	Richardson,
Brown,	Johnson,	Robertson,
Budge,	Lauder,	Rolfe,
Camp,	Leach,	Rowe,
Carland,	Linwell,	Scott,
Carothers,	Lohnes,	Selby,
Chaffe	Lowell,	Shuman,
Clapp,	Mathews,	Slotten,
Clark,	Meacham,	Stevens,
Colton,	McHugh,	Wallace,
Douglas,	Miller,	Wellwood,
Elliott,	Nomland,	Whipple.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Appleton,	Marrinan,	Parsons of Morton,
Bennett,	McBride,	Powles,
Gray,	McKenzie,	Spalding,
Harris,	Moer,	Turner,
Hoyt,	Noble,	Williams,
		Mr. President.

Absent and not voting:

Mr. Paulson,                      Mr. Sandager.

And so the motion to lay on the table prevailed.

Mr. Williams moved to amend section one hundred and twenty-nine (129) by adding thereto the following:

And the Legislative Assembly shall immediately, and from time to time, provide for a complete and uniform registration by election districts of the names of qualified electors in this state; which registration shall be evidence of the qualification of all registered electors to vote at any election thereafter held; but no person shall be excluded from voting at any election on account of not being registered, until the General Assembly shall have passed an act of registration which shall have gone into effect. No person shall vote, except as provided

in this Constitution, unless his name shall have been registered as required by law at least ten days before the day of election. A new registration shall be made within sixty days next preceding the tenth day prior to every election; and after it shall have been made no person shall establish his right to vote by the fact that his name appears on any previous register. All laws for the registration of electors shall be uniform throughout the state.

Mr. Stevens moved as a substitute the following: "The Legislature shall provide by law for the registration of voters."

Which substitute was lost.

Mr. Bartlett of Griggs, moved to strike out all after the word "held" in the fifth line of the amendment proposed by Mr. Williams, and that as so amended the section be adopted.

Which motion prevailed and the section as amended was adopted.

Mr. Bartlett of Griggs, moved that article five (5) as amended be adopted, and that it be sent to the engrossing clerks.

Which motion prevailed.

Sections one hundred and three (103) and one hundred and sixteen (116), being Special Orders, were considered.

Mr. Lauder moved to amend section one hundred and three (103) by striking out in the second line the words "each within its territorial limits" and adding at the close thereof the following:

All proceedings had and taken in any action not commenced in the county in which the defendant, or one of the defendants, resides, shall be null and void; *provided*, however, that this shall not apply to non-residents of this state, persons about to depart from the county of their residence.

Mr. Spalding called for a division of the motion.

Which being divided the motion to strike out was lost.

Mr. Williams moved that the section be recommitted to the Committee on Judiciary.

Which motion prevailed.

Mr. Bartlett of Griggs, moved that the Judiciary Committee be instructed to report a section in lieu of one hundred and three, that will give a person the right to be sued in the county in which he resides, and all proceedings had not in accordance therewith be void, and report at the next session.

Mr. Selby moved to lay the motion on the table.

Which motion prevailed.

Mr. Bean moved that the Judiciary Committee be instructed to report on section one hundred and three (103) at the next session.

Which motion prevailed.

Mr. Spaulding moved that section one hundred and sixteen (116) be also referred to the Judiciary Committee, with instructions to report at the next session.

Mr. Purcell moved as a substitute that section one hundred and sixteen (116) be adopted.

Which motion prevailed, and the section was adopted.

Mr. Spalding moved to amend section one hundred and twenty-nine (129) by striking out the following words: "which registration shall be evidence of the qualification of all registered electors to vote at any election thereafter held."

Which motion was ruled out of order.

Mr. Spalding moved that the vote by which Article V was adopted be reconsidered.

Mr. Parsons, of Morton, moved to lay the motion on the table.

Which motion was lost and the motion to reconsider prevailed.

Mr. Williams moved to reconsider the vote by which the amendment of Mr. Bartlett, of Griggs, was adopted.

Which motion prevailed.

Mr. Selby moved to lay all amendments to section one hundred and twenty-nine (129) on the table.

Ayes and nays demanded.

The roll being called, there were ayes, 59; nays, 10; viz:

Those who voted in the affirmative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Allin,	Harris,	Peterson,
Almen,	Haugen,	Powers,
Appleton,	Hegge,	Powles,
Bartlett of Dickey,	Holmes,	Purcell,
Bean,	Lauder,	Pollock,
Bennett,	Leach,	Ray,
Best,	Linwell,	Richardson,
Blewett,	Lohnes,	Robertson,
Brown,	Lowell,	Rolfe,
Budge,	Marrinan,	Rowe,
Camp,	Mathews,	Scott,
Carland,	Meacham,	Selby,
Carothers,	McBride,	Shuman,
Chaffee,	McHugh,	Slotten,
Clapp,	Miller,	Spalding,
Clark,	Moer,	Stevens,
Colton,	Noble,	Wellwood,
Fay,	Nomland,	Whipple,
Flemington,	O'Brien,	Mr. President.
Glick,	Parsons of Rolette,	

Those who voted in the negative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Bartlett of Griggs,	Hoyt,	Turner,
Elliott,	Johnson,	Wallace,
Gayton,	Parsons of Morton,	Williams.
Gray,		

Absent and not voting:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Bell,	Griggs,	Paulson,
Douglas,	McKenzie,	Sandager.

And so the motion to lay on the table prevailed.

Mr. Parsons of Morton moved to adopt Article V.

Mr. Williams moved as an amendment that the following be substituted for section one hundred and twenty-nine (129):

SEC. 129. The General Assembly shall immediately, and from time to time, provide for by law a complete and uniform registration by election districts of the names of qualified electors in this state; which registration shall be evidence of the qualification of all registered electors to vote at any election thereafter held; but no person shall be excluded from voting at any election, on account of not being registered, until the General Assembly shall have passed an act of registration which shall have gone into effect. No person shall vote, except as provided in this Constitution, unless his name shall have been registered as required by law at least ten days before the day of election. A new registration shall be made within sixty days next preceding the tenth day prior to every election; and after it shall have been made no person shall establish his right to vote by the fact that his name appears on any previous register. All laws for the registration of electors shall be uniform throughout the state.

Mr. Lauder moved to lay the amendment on the table.

Mr. Moer raised the point of order that the amendment of Mr. Williams was out of order, being identical with one just been laid on the table.

Mr. President decided the point well taken.

Mr. Parsons of Morton moved the previous question and the question being shall the main question be put, being put it prevailed, and

The motion to adopt Article V prevailed.

Mr. Spalding moved to reconsider the vote by which Article V was adopted.

Which motion prevailed.

#### ARTICLE VI.

Section one hundred and thirty was adopted.

Mr. Scott moved that the recommendation of the committee as to section one hundred and thirty-one (131) be concurred in.

Which motion prevailed, and the section as recommended to be amended by the committee, was adopted.

Mr. Wallace moved that the recommendation of the committee as to section one hundred and thirty-two (132) be concurred in.

Mr. Rolfe moved as a substitute that section one hundred and thirty two (132) and also the recommendation of the committee be not passed until section one hundred and eighty-eight (188) be reached.

Which motion prevailed.

Mr. President called Mr. Johnson to the chair.

#### ARTICLE VII.

Sections one hundred and thirty-three (133), one hundred and thirty-four (134), one hundred and thirty-five (135), one hundred

and thirty-six (136), one hundred and thirty-seven (137), one hundred and thirty-eight (138), one hundred and thirty-nine (139), one hundred and forty (140), one hundred and forty-one (141), one hundred and forty-two (142) and one hundred and forty-three (143) were adopted.

Mr. Wallace moved that the recommendation of the committee as to section one hundred and forty-four be concurred in.

Which motion prevailed.

Mr. Purcell moved to amend section one hundred and forty-four by adding thereto the following:

*Provided*, That the common carriers above named, or any party interested, shall have the right to appeal to the courts from the rates so fixed by the Legislative Assembly whenever said rates as fixed appear to be unreasonable or unjust.

*Provided, further*, That pending the determination of the appeal, the court shall fix and determine what rates shall be in force.

Mr. Lauder moved a call of the house.

Which motion prevailed.

And the roll was called.

All members were present except Messrs. Bennett, Flemington, Holmes, Mathews, McKenzie, Richardson, Sandager, Selby and Stevens.

Mr. Paulson being excused.

Mr. Spalding moved that further proceedings under call of the house be dispensed with.

Which motion prevailed.

Mr. Parsons of Morton offered the following substitute for the amendment proposed by Mr. Purcell:

*Provided*, That appeal may be had to the courts of this state, from the rates so fixed, but the rates fixed by the Legislative Assembly or Board of Railroad Commissioners shall be in force pending the decision of the courts.

The ayes and nays were demanded on the substitute.

The roll being called, there were ayes, 59; nays, 13; viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Allin,	Harris,	Peterson,
Almen,	Haugen,	Powers,
Appleton,	Hegge,	Powles,
Bartlett of Griggs,	Holmes,	Pollock,
Bean,	Hoyt,	Ray,
Bell,	Johnson,	Richardson,
Bennett,	Lauder,	Rolfe,
Best,	Linwell,	Rowe,
Brown,	Lohne,	Scott,
Budge,	Lowell,	Shuman,
Carland,	Marrinan,	Slotten,
Carothers,	Mathews,	Spalding,
Clapp,	McBride,	Stevens,
Clark,	McHugh,	Turner,
Colton,	McKenzie,	Wallace,
Douglas,	Moer,	Wellwood,

Gayton,  
Glick,  
Gray,  
Griggs,

Noble,  
Nomland,  
O'Brien,  
Parsons of Morton,

Whipple,  
Williams,  
Mr. President.

Those who voted in the negative were:

Messrs—

Bartlett of Dickey,  
Blewett,  
Camp,  
Chaffee,  
Elliott,

Messrs—

Fay,  
Leach,  
Meacham,  
Miller,

Messrs—

Parsons of Rolette,  
Parcell,  
Robertson,  
Selby.

Absent and not voting:

Mr. Flemington,

Mr. Paulson,

Mr. Sandager.

And so the substitute to the amendment prevailed.

Mr. Stevens, by request of Mr. Griggs, introduced the following resolution and moved its adoption:

*Resolved*, That this Convention heartily endorses the proposition to hold the World's Fair in the city of Chicago, thus bringing this great exposition nearer the homes of the people of the west, nearer the center of the continent and nearer the center of the population which goes to make up the American union.

Which resolution prevailed.

Mr. Pollock moved to adjourn.

Which motion prevailed.

### EVENING SESSION.

The Convention assembled at 8 o'clock p. m., pursuant to adjournment.

Section one hundred and forty-five (145) was adopted.

Mr. Miller moved to adopt section one hundred and forty-six (146).

Mr. Moer moved as an amendment that the recommendation of the committee be concurred in.

Which motion prevailed.

And the section was stricken out.

Sections one hundred and forty-seven (147) and one hundred and forty-eight (148) were adopted.

Mr. Spalding moved to amend section one hundred and forty-nine (149) by striking out all after the word "void" in the last line.

Which motion prevailed.

Mr. Turner moved to further amend the section by inserting after the word "exchange" in the fourth line the words "or transportation."

Ayes and nays were demanded.

The roll being called there were ayes 47; nays, 20; viz.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Allin,	Elliott,	Powles,
Appleton,	Fay,	Pollock,
Bartlett of Dickey,	Flemington,	Richardson,
Bartlett of Griggs,	Gayton,	Robertson,
Bean.	Gray,	Rowe,
Bell,	Haugen,	Scott,
Bennett,	Holmes,	Slotten,
Best,	Johnson,	Spalding,
Camp,	Lauder,	Stevens,
Carland,	Linwell,	Turner,
Carothers,	Lohnes,	Wallace,
Chaffee,	Mathews,	Wellwood,
Clapp,	McBride,	Whipple,
Clark,	Nomland,	Williams,
Colton,	Parsons of Morton,	Mr. President.
Douglas,	Peterson,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Blewett,	Lowell,	Parsons of Rolette,
Brown,	Marrinan,	Powers,
Glick,	Meacham,	Purcell,
Harris,	McHugh,	Ray,
Hegge,	O'Brien,	Rolfe,
Hoyt,	Moer,	Shuman
Leach,	Noble,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Almen,	McKenzie,	Sandager,
Budge,	Miller,	Selby.
Griggs,	Paulson,	

Messrs. Moer and Miller explaining their votes.

And so the amendment prevailed.

Mr. President called Mr. Turner to the chair.

Mr. Johnson moved to adopt the article as amended.

Which motion prevailed.

Mr. Scott moved that section one hundred and thirty (130) of Article VI be made a part of Article VII under the caption "Municipal and other Corporations," and that Article VII be renumbered and become Article VI.

Which motion was lost.

#### ARTICLE VIII.

Section one hundred and fifty (150) was adopted.

Mr. McHugh moved to amend section one hundred and fifty one (151) by striking out all after the word "state" in line three and insert the following:

"And each county of the state shall be divided into a convenient number of independent school districts. But no school district shall be formed containing less than twenty-five inhabitants."

Mr. Scott moved to lay the amendment on the table.

Which motion prevailed and

The section was adopted as reported from the committee.

Section one hundred and fifty two (152) was adopted.

Mr. Clapp moved that the recommendation of the committee as to section one hundred and fifty three (153) be concurred in.

Which motion prevailed,

And the section was stricken out.

Sections one hundred and fifty four (154), one hundred and fifty five (155) and one hundred and fifty six (156) were adopted.

Mr. Colton moved to adopt Article VIII as amended.

Which motion prevailed and

Article VIII was adopted.

#### ARTICLE IX.

Mr. Pollock moved to amend section one hundred and fifty-seven (157) by inserting after the word "school" in the fourth from the last line the words: "And all monies received from licenses for the sale of intoxicating liquors."

Which motion was lost, and

The section was adopted as reported from the committee.

Section one hundred and fifty-eight (158) was adopted.

Mr. Williams moved to amend section one hundred and fifty-nine (159) by adding at the end thereof the following words: "The coal lands of the state shall never be sold, but the Legislative Assembly may by general laws provide for leasing the same." The words "coal lands" shall include lands bearing lignite coal.

Which motion prevailed and

The section as amended was adopted.

Section one hundred and sixty (160) was adopted.

Section one hundred and sixty-one (161) was adopted.

Mr. Rolfe moved that section one hundred and sixty-two (162) be amended by inserting after the word "advance" in line seven the following words: "*Provided*, That any purchaser may at his option complete his final payment at the expiration of ten years from date of purchase."

Mr. Spalding moved to amend the motion by providing that "the purchaser may complete the purchase at any time by paying one year's interest in advance."

Mr. Lauder moved that the amendments of Mr. Rolfe and Mr. Spalding be laid upon the table.

Mr. Spalding called for a division of the question, which being divided, the amendment of Mr. Spalding was lost, and the amendment of Mr. Rolfe was also lost.

Mr. Bell moved that section one hundred and sixty-two (162) be adopted.



Mr. Spalding moved to amend section one hundred and sixty-two (162) by striking out the words "one-fifth" in the third line, and inserting therefor the words "one-fourth," and to amend the rest of the section to correspond.

Mr. Lauder moved to lay the amendment on the table.

Which motion prevailed.

Mr. Bean moved the previous question, and the question being shall the main question be put, being put, prevailed, and section one hundred and sixty-two (162) was adopted.

Mr. Miller moved to adopt section one hundred and sixty-three (163).

Mr. Camp moved the previous question and the question being shall the main question be put, being put prevailed and

The section was adopted.

Mr. Stevens moved to reconsider the vote by which section one hundred and sixty-three (163) was adopted.

Which motion was withdrawn.

Section one hundred and sixty-four (164) was adopted.

Mr. Miller moved to amend section one hundred and sixty-five (165) by inserting after the word "may" in the eighth line the following words: "In the discretion and under the control of the board of university and school lands."

Which motion prevailed and

The section as amended was adopted.

Mr. Camp moved that the recommendation of the committee as to this section be concurred in,

Which motion prevailed, and the section as amended was adopted.

Mr. Bartlett of Griggs, moved that section one hundred and sixty-three be amended in line five by striking out the period after the word "purpose" and inserting a comma; and making the word "and" commence with a lower case letter.

Which motion prevailed.

Sections one hundred and sixty-six (166) and one hundred and sixty-seven (167) were adopted.

Mr. Scott moved that the recommendations of the committee as to section one hundred and sixty-eight (168) be concurred in

Which motion prevailed and

The section, as recommended to be amended by the committee, was adopted.

Section one hundred and sixty-nine (169) was approved.

Mr. Miller moved to reconsider the vote by which the recommendations of the committee as to section one hundred and sixty-five (165) were concurred in.

Mr. Scott moved to lay the motion on the table.

Which motion was lost, and  
The motion to reconsider prevailed.

Mr. Miller moved that the recommendation of the committee as to section one hundred and sixty-five (165) be not concurred in. Which motion prevailed.

Mr. Johnson moved that when we adjourn it be to meet again at 2 o'clock to-morrow afternoon."

Mr. Stevens moved to amend by substituting "10 o'clock to-morrow morning" for "2 o'clock to-morrow afternoon.

Ayes and nays demanded.

The roll being called, there were ayes, 44; nays, 19; viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Allin,	Gray,	Powles,
Appleton,	Griggs,	Purcell,
Bartlett of Griggs,	Haugen,	Pollock,
Bean,	Hegge,	Richardson,
Bell,	Holmes,	Rolfe,
Best,	Johnson,	Rowe,
Blewett,	Lauder,	Scott,
Budge,	Leach,	Slotten,
Carothers,	Linwell,	Stevens,
Chaffee,	Lohnes,	Turner,
Clapp,	Mathews,	Wallace,
Clark,	McBride,	Wellwood,
Coltou,	Parsons of Rolette,	Williams,
Douglas,	Peterson,	Mr. President.
Glick,	Powers,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Bartlett of Dickey,	Harris,	Nomland,
Bennett,	Hoyt,	Parsons of Morton,
Brown,	Marrinan,	Ray,
Camp,	Meacham,	Robertson,
Fay,	Miller,	Shuman,
Flemington,	Moer,	Spalding.
Gayton,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Almen,	McHugh,	Paulson,
Carland,	McKenzie,	Sandager,
Elliott,	Noble,	Selby,
Lowell,	O'Brien,	Whipple.

And so the amendment prevailed.

Mr. Turner moved that Article IX as amended be adopted.

Which motion prevailed and Article IX as amended was adopted.

Mr. Scott moved that we do now proceed to the consideration of Article X.

Mr. Moer moved to adjourn.

Which motion was lost and

The motion of Mr. Scott prevailed.

## ARTICLE X.

Section one hundred and seventy (170) was adopted.

Mr. Appleton moved to amend section one hundred and seventy-one (171) by striking out the words: "As to include an area of less than twenty-four congressional townships."

Mr. Flemington moved a call of the house.

Which motion was lost.

Mr. Flemington moved the previous question and the question being shall the main question be put and a vote being taken, prevailed, and the main question being put was lost.

Mr. Clapp moved to amend the section by striking out the word "four" in line five.

Ayes and nays demanded.

The roll being called, there were ayes, 27; nays, 36; viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Allin,	Elliott,	Powles,
Appleton,	Gray,	Purcell,
Bartlett of Griggs,	Harris,	Richardson,
Bell,	Hoyt,	Robertson,
Bennett,	Leach,	Rowe,
Best,	Lowell,	Spalding,
Clapp,	Mathews,	Stevens,
Clark,	Miller,	Wallace,
Douglas,	Powers,	Mr. President.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Bartlett, of Dickey,	Griggs,	Parsons of Morton,
Bean,	Haugen,	Parsons of Rolette,
Brown,	Hegge,	Peterson,
Budge,	Holmes,	Pollock,
Camp,	Johnson,	Ray,
Carothers,	Lauder,	Rolfe,
Chaffee,	Linwell,	Scott,
Colton,	Lohnes,	Shuman,
Fay,	Marrinan,	Slotten,
Flemington,	Meacham,	Turner,
Gayton,	Moer,	Wellwood,
Glick,	Nomland,	Williams.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Almen,	McHugh,	Paulson,
Blewett,	McKenzie,	Sandager,
Carland,	Noble,	Selby,
McBride,	O'Brien,	Whipple,

And so the amendment was lost.

Mr. Appleton moved to amend the section by striking out the words "twenty-four" in line five and inserting therefor the words "eighteen."

Mr. Bartlett of Griggs, moved to adjourn.  
Which motion was withdrawn.

Mr. Williams moved that the Chair appoint a committee of five on enrolling and and engrossing the Constitution.  
Which motion prevailed.

Mr. Bartlett's motion was lost.

Mr. Miller moved to lay the motion of Mr. Appleton on the table.

Which motion prevailed.

Mr. Rolfe moved to adopt section one hundred and seventy-one (171) as reported from the committee.

Which motion prevailed, and  
The section was adopted.

Mr. Rolfe moved that the recommendation of the committee as to section one hundred and seventy-two (172) be concurred in.

Which motion prevailed, and

The section as recommended to be amended was adopted.

Section one hundred and seventy-three (173) was adopted.

Mr. Stevens moved that the recommendation of the committee as to section one hundred and seventy-four (174) be not concurred in.

Mr. Miller moved as a substitute, that this section and section one hundred and seventy-five (175) be recommitted to the committee with instructions for them to report tomorrow morning.

Which motion prevailed.

Mr. Bartlett, of Griggs, moved to strike out section one hundred and seventy-five (175) and substitute therefor the following: At the first general election held after the adoption of this Constitution, and every two years thereafter, there shall be elected in each organized county in the state, a County Judge, Clerk of Court, Register of Deeds, County Auditor, Treasurer, Sheriff, and States Attorney, who shall be electors of the county in which they are elected and who shall hold their office until their successors are elected and qualified. The Legislative Assembly shall provide by law for such other county, township and district officers, as may be deemed necessary and shall prescribe the duties and compensation of all county, township and district officers.

Mr. Miller moved to adjourn.  
Which motion prevailed and  
The convention adjourned.

J. G. HAMILTON,  
Chief Clerk.

FRIDAY, August 16, 1889.

The Convention assembled at 10 o'clock a. m., pursuant to adjournment.

The President presiding.

Prayer was offered by the chaplain.

The roll was called, all members absent being excused.

The Journal of August 14th was read, corrected and approved.

Mr. Miller moved that petitions be not read.

Which motion prevailed.

Mr. Clapp moved that the roll call be not read.

Which motion prevailed.

The President appointed as a Committee on Enrolling and Engrossing the following: Messrs. Spalding, Johnson, Carland, Camp and Wallace.

PETITIONS, REMONSTRANCES, ETC.

FORMAN, N. D., August 15, 1889.

*To the Hons. J. D. McKenzie or John Shuman.*

Do all you can to locate the capital and other state institutions in the Constitution. We heartily approve your vote upon the report of the committee to locate therein.

S. A. DANFORD, and 10 others.

MILNOR, N. D., August 14, 1889.

*To the Hon. J. D. McKenzie:*

The Constitution burned in effigy here at 9 o'clock this morning. The following protest against the malicious usurpation of people's rights in locating public institutions. Give this publicity.

F. W. RUNKEL,  
Chairman Democratic County Central Committee,  
and 40 others.

GRAND FORKS, N. D., Aug. 15, 1889.

*To the Hon. R. Bennett:*

The following resolution was unanimously adopted by the young men's republican club of Grand Forks:

*Resolved,* That we, the young men's republican club of Grand Forks city, in meeting assembled, do most emphatically protest against the action of the Constitutional Convention in arbitrarily locating the public institutions of North Dakota, contrary to the will of the people, and in defiance of every principle of justice and right, and that we will use every honorable means to defeat the work of the Convention if it persists in offering a Constitution containing the obnoxious clause.

FORMAN, N. D., Aug. 15, 1889.

*To the Hon. J. D. McKenzie or John Shuman:*

We most heartily approve the action of the Constitutional Convention in locating the capital and other institutions and fully indorse the course of Delegates McKenzie and Shuman in voting for such location. We sincerely hope no action will be taken by the Convention to revoke said location or to provide

for the submission of the question to popular vote and urge your delegates to continue to vote for the location of all public buildings by the Constitution.

W. L. STRAUB, and 43 others.

NICHOLSON, N. D., Aug. 15, 1889.

*To the Hon. J. D. McKenzie or John Shuman:*

The undersigned citizens of Nicholson heartily endorse your vote on the location of the capital and other public institutions, believing it to be for the best interest of North Dakota.

T. W. NICHOLSON,  
DANIEL McBEAN,  
and 5 others.

REPORT OF SPECIAL AND STANDING COMMITTEES.

The Committee on County and Township Organization recommend the following in place of section 174:

COUNTY GOVERNMENT.

SECTION 174. The Legislative Assembly shall provide by general law for township organization, under which any county may organize whenever a majority of all the legal voters of such county, voting at a general election, shall so determine, and whenever any county shall adopt township organization, so much of this Constitution as provides for the management of the fiscal concerns of said county by the board of county commissioners may be dispensed with by a majority vote of the people voting at any general election, and the affairs of said county may be transacted by the chairman of the several township boards of said county, and such others as may be provided by law for incorporated cities, towns or villages within such county.

SEC. 175. In any county that shall have adopted a system of government by the chairmen of the several township boards, the question of continuing the same may be submitted to the electors of such county at a general election in such manner as may be provided by law, and if a majority of all the votes cast upon such question shall be against said system of government, then such system shall cease in said county, and the affairs of said county shall then be transacted by a board of county commissioners as is now provided by the laws of the Territory of Dakota.

SEC. 176. Until the system of county government by the chairmen of the several township boards is adopted by any county, the fiscal affairs of said county shall be transacted by a board of county commissioners. Said board shall consist of not less than three and not more than five members, whose term of office shall be prescribed by law. Said board shall hold sessions for the transaction of county business as shall be prescribed by law.

Mr. Scott moved to adopt the report.

Mr. Stevens moved as an amendment that the words "general" and "a" in the proposed substitute of section one hundred and seventy four be stricken out and the words "as may be provided by law," be inserted therefor.

Which amendment prevailed.

Mr. Hegge moved to strike out the words "or towns."

Mr. Harris moved as an amendment that the words "villages" be inserted.

Which amendment prevailed.

The motion as amended prevailed.

The original motion of Mr. Scott prevailed,

And the report was adopted.

Mr. Miller moved to proceed to the consideration of section one hundred and seventy five (175).

Which motion prevailed.

Mr. Miller moved to concur in the amendments proposed by the committee and to adopt the section.

Mr. Bartlett of Griggs moved that the substitute offered by himself last night be adopted as a substitute for section one hundred and seventy five (175).

Which motion prevailed,

And the substitute for one hundred and seventy five (175) was adopted.

Mr. Scott moved to strike out section one hundred and seventy six (176).

Which motion prevailed.

Mr. Moer moved to amend section one hundred and seventy seven (177) by adding at the beginning thereof the following words: "After the first day of January, A. D. 1891."

Which amendment was lost.

Mr. Moer moved to amend the section by adding at the close thereof the words: "Under this Constitution."

Which amendment prevailed.

Mr. Hegge moved that Article X as amended be adopted.

Which motion prevailed,

And Article X was adopted.

#### ARTICLE XI.

Sections one hundred and seventy-eight (178) and one hundred and seventy-nine (179) were adopted.

Mr. Scott moved to amend section one hundred and eighty (180) by adding thereto the following:

*Provided, However, that the Legislative Assembly may by law accept and provide for a tax based on gross earnings in lieu of all other taxes to be assessed against the road, road-bed, rolling stock, franchise and all other, and only such property as is owned by any railroad corporation and used by it in the actual operation of its road.*

Mr. Hegge, as a substitute, moved to amend the section by adding thereto the words "until otherwise provided by law."

Mr. Wallace moved to lay the amendment on the table.

Ayes and nays were demanded.

The roll being called, there were ayes, 33; nays, 35; viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Allin,	Elliott,	O'Brien,
Appleton,	Gray,	Peterson,
Bartlett of Griggs,	Johnson,	Powers,
Bean,	Lauder,	Powles,
Bell,	Linwell,	Richardson,

Best,  
Carothers,  
Clapp,  
Clark,  
Colton,  
Douglas,

Lohnes,  
Marrinan,  
McBride,  
Moer,  
Noble,  
Nomland,

Robertson,  
Slotten,  
Turner,  
Wallace,  
Wellwood,  
Mr. President.

Those who voted in the negative were:

Messrs—

Bartlett of Dickey,  
Bennett,  
Blewett,  
Brown,  
Budge,  
Carland,  
Chaffee,  
Flemington,  
Gayton,  
Glick,  
Griggs,  
Harris,

Messrs—

Haugen,  
Hegge,  
Holmes,  
Hoyt,  
Leach,  
Lowell,  
Mathews,  
Meacham,  
McHugh,  
McKenzie,  
Miller,  
Parsons of Rolette,

Messrs—

Purcell,  
Pollock,  
Ray,  
Rowe,  
Sandager,  
Scott,  
Shuman,  
Spalding,  
Stevens,  
Whipple,  
Williams.

Absent and not voting:

Messrs—

Almen,  
Camp,  
Fay,

Messrs—

Parsons of Morton,  
Paulson,

Messrs—

Rolfe,  
Selby,

And so the motion to lay on the table was lost.

Mr. Moer moved as an amendment that the words "until otherwise provided by law" be prefixed to the section.

Which amendment was accepted.

Ayes and nays were demanded on Mr. Hegge's motion as amended.

The roll being called, there were ayes, 17; nays, 51; viz:

Those who voted in the affirmative were:

Messrs—

Blewett,  
Brown,  
Carland,  
Chaffee,  
Clark,  
Glick,

Messrs—

Griggs,  
Hegge,  
Hoyt,  
Leach,  
Lowell,  
Parsons of Rolette,

Messrs—

Purcell,  
Pollock,  
Ray,  
Whipple,  
Williams.

Those who voted in the negative were:

Messrs—

Allin,  
Appleton,  
Bartlett of Dickey,  
Bartlett of Griggs,  
Bean,  
Bell,  
Bennett,  
Best,  
Budge,  
Carothers,  
Clapp,  
Colton,

Messrs—

Harris,  
Haugen,  
Holmes,  
Johnson,  
Lauder,  
Linwell,  
Marrinan,  
Mathews,  
Meacham,  
McBride,  
McHugh,  
McKenzie,

Messrs—

Parsons of Morton,  
Peterson,  
Powers,  
Powles,  
Richardson,  
Robertson,  
Rowe,  
Sandager,  
Scott,  
Shuman,  
Slotten,  
Spalding.



Douglas,  
Elliott,  
Flemington,  
Gayton,  
Gray,

Miller,  
Moer,  
Noble,  
Nomland,  
O'Brien,

Stevens,  
Turner,  
Wallace,  
Wellwood,  
Mr. President.

Absent and not voting:

Messrs—  
Almen,  
Camp,  
Fay,

Messrs—  
Lohnes,  
Paulson,

Messrs—  
Rolfe,  
Selby.

Messrs. Scott and Williams explaining their votes.

And so the amendment was lost.

Mr. Parsons moved to amend section one hundred and eighty (180) by adding thereto the following:

*Provided*, That the Legislature may provide a uniform rate for taxing all property used exclusively for railroad purposes.

Mr. Colton moved to lay the amendment on the table.

Ayes and nays demanded.

The roll being called there were ayes 41; nays, 26; viz:

Those who voted in the affirmative were:

Messrs—  
Allin,  
Appleton,  
Bartlett of Dickey,  
Bartlett of Griggs,  
Bean,  
Bell,  
Bennett,  
Best,  
Carothers,  
Clapp,  
Clark,  
Colton,  
Douglas,  
Elliott,

Messrs—  
Gray,  
Haugen,  
Hegge,  
Johnson,  
Lauder,  
Linwell,  
Lohnes,  
Marrinan,  
Mathews,  
McBride,  
McHugh,  
McKenzie,  
Noble,  
Nomland,

Messrs—  
Peterson,  
Powers,  
Powles,  
Pollock,  
Richardson,  
Robertson,  
Rowe,  
Sandager,  
Slotten,  
Turner,  
Wallace,  
Wellwood,  
Mr. President.

Those who voted in the negative were:

Messrs—  
Blewett,  
Brown,  
Budge,  
Camp,  
Carland,  
Chaffee,  
Flemington,  
Gayton,  
Glick,

Messrs—  
Griggs,  
Harris,  
Hoyt,  
Leach,  
Lowell,  
Meacham,  
Miller,  
Moer,  
Parsons of Morton,

Messrs—  
Parsons of Rolette,  
Purcell,  
Ray,  
Scott,  
Shuman,  
Stevens,  
Whipple,  
Williams.

Absent and not voting:

Messrs—  
Almen,  
Fay,  
Holmes,

Messrs—  
O'Brien,  
Paulson,  
Rolfe,

Messrs—  
Selby,  
Spalding.

Mr. Stevens explaining his vote.

And so the motion to lay on the table prevailed.

Mr. Moer moved to amend section one hundred and eighty (180) by adding thereto the following:

But this section shall not be construed as prohibiting the Legislative Assembly from enacting a uniform gross earnings law upon property of railroad corporations used exclusively for railroad purposes.

Mr. McHugh moved to adjourn.

Ayes and nays demanded.

The roll being called there were ayes, 39; nays, 31: viz:

Those who voted in the affirmative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Bartlett of Dickey,	Hegge,	Powles,
Blewett,	Holmes,	Purcell,
Brown,	Hoyt,	Pollock,
Budge,	Lowell,	Ray,
Camp,	Meacham,	Robertson,
Carland,	McHugh,	Rowe,
Clapp,	McKenzie,	Sandager,
Clark,	Miller,	Scott,
Flemington,	Moer,	Shuman,
Gayton,	Noble,	Spalding,
Glick,	O'Brien,	Whipple,
Griggs,	Parsons of Morton,	Williams,
Harris,	Parsons of Rolette,	Mr. President.

Those who voted in the negative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Allin,	Elliott,	McBride,
Appleton,	Gray,	Nomland,
Bartlett of Griggs,	Haugen,	Peterson,
Bean,	Johnson,	Powers,
Bell,	Lander,	Richardson,
Bennett,	Leach,	Slotten,
Best,	Linwell,	Stevens,
Carothers,	Lohnes,	Turner,
Chaffee,	Marrinan,	Wallace,
Colton,	Mathews,	Wellwood.
Douglas,		

Absent and not voting:

<b>Messrs—</b>	<b>Messrs—</b>	
Almen,	Paulson,	Mr. Selby.
Fay,	Rolfe,	

And so the motion to adjourn prevailed,  
And the Convention adjourned.

#### AFTERNOON SESSION.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

Mr. Lowell moved as a substitute for the original section and the amendment that the following be substituted for section one hundred and eighty (180):

The rule of taxation shall be uniform, and taxes shall be levied on such property as the Legislative Assembly shall prescribe.

Mr. Colton moved to lay the substitute and the amendment on the table.

Mr. Moer called for a division of the question, which being divided, the motion to lay the substitute on the table was put.

Ayes and nays were demanded.

The roll being called, there ayes, 33; nays, 37; viz:

Those who voted in the affirmative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Allin,	Elliott,	Peterson,
Appleton,	Gray,	Powers,
Bartlett of Griggs,	Haugen,	Powles,
Bean,	Johnson,	Richardson,
Bell,	Lauder,	Robertson,
Bennett,	Linwell,	Sandager,
Best,	Marrinan,	Slotten,
Carothers,	McBride,	Turner,
Clark,	Noble,	Wallace,
Colton,	Nomland,	Wellwood,
Douglas,	O'Brien,	Mr. President.

Those who voted in the negative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Bartlett of Dickey,	Harris,	Parsons of Rolette,
Blewett,	Hegge,	Parsons of Morton,
Brown,	Holmes,	Purcell,
Budge,	Hoyt,	Pollock,
Camp,	Leach,	Ray,
Carland,	Lohnes,	Rowe,
Chaffe	Lowell,	Scott,
Clapp,	Meacham,	Shuman,
Fay,	McHugh,	Spalding,
Flemington,	McKenzie,	Stevens,
Gayton,	Miller,	Whipple,
Glick,	Moer,	Williams.
Griggs,		

Absent and not voting:

<b>Messrs—</b>	<b>Messrs—</b>	
Almen,	Paulson,	Mr. Selby.
Mathews,	Rolfe,	

And so the motion to lay the substitute on the table was lost.

Mr. Bartlett of Griggs moved the previous question, and the question being, shall the main question be now put, a vote being taken, prevailed.

Ayes and nays demanded on the substitute of Mr. Lowell.

The roll being called, there were ayes, 35; nays, 36; viz:

Those who voted in the affirmative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Bartlett of Dickey,	Griggs,	Moer,
Bennett,	Harris,	Parsons of Morton,
Blewett,	Hegge,	Parsons of Rolette,
Brown,	Holmes,	Purcell,

Budge,  
Carland,  
Chaffee,  
Clapp,  
Fay,  
Flemington,  
Gayton,  
Glick,

Hoyt,  
Leach,  
Lohnes,  
Lowell,  
Mathews,  
Meacham,  
McHugh,  
Miller,

Pollock,  
Ray,  
Shuman,  
Spaulding,  
Stevens,  
Whipple,  
Williams.

Those who voted in the negative were:

Messrs—  
Allin,  
Appleton,  
Bartlett of Griggs,  
Bean,  
Bell,  
Best,  
Camp,  
Carothers,  
Clark,  
Colton,  
Douglas,  
Elliot,

Messrs—  
Gray,  
Haugen,  
Johnson,  
Lauder,  
Linwell,  
Marrinan,  
McBride,  
McKenzie,  
Noble,  
Nomland,  
O'Brien,  
Peterson,

Messrs—  
Powers,  
Powles,  
Richardson,  
Robertson,  
Rowe,  
Sandager,  
Scott,  
Slotten,  
Turner,  
Wallace,  
Wellwood,  
Mr. President.

Absent and not voting:

Messrs—  
Almen,  
Paulson,

Messrs—  
Rolfe,

Messrs—  
Selby.

And so the substitute for section one hundred and eighty (180) and the amendment was lost.

The question then recurring on the amendment of Mr. Moer the ayes and nays were demanded.

The roll being called, there were ayes, 30; nays, 40; viz:

Those who voted in the affirmative were:

Messrs—  
Bartlett of Dickey,  
Blewett,  
Brown,  
Carland,  
Chaffee,  
Clapp,  
Fay,  
Flemington,  
Gayton,  
Glick,

Messrs—  
Griggs,  
Harris,  
Hoyt,  
Leach,  
Lohnes,  
Lowell,  
Meacham,  
McHugh,  
Miller,  
Moer,

Messrs—  
Parsons of Morton,  
Parsons of Rolette,  
Purcell,  
Ray,  
Sandager,  
Scott,  
Shuman,  
Spalding,  
Stevens,  
Whipple.

Those who voted in the negative were:

Messrs—  
Allin,  
Appleton,  
Bartlett of Griggs,  
Bean,  
Bell,  
Bennett,  
Best,  
Budge,  
Camp,  
Carothers,

Messrs—  
Gray,  
Haugen,  
Holmes,  
Johnson,  
Lauder,  
Linwell,  
Marrinan,  
Mathews,  
McBride,  
McKenzie,

Messrs—  
Peterson,  
Powers,  
Powles,  
Pollock,  
Richardson,  
Robertson,  
Rowe,  
Slotten,  
Turner,  
Wallace,

Clark, Colton, Douglas, Elliott,	Noble, Nomland, O'Brien,	Wellwood, Williams, Mr. President.
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Absent and not voting:

Messrs— Almen, Hegge,	Messrs— Paulson, Rolfe,	Messrs Selby.
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Messrs. Camp and Moer explaining their votes.

And so the amendment was lost.

Ayes and nays were demanded on the adoption of the section.

The roll being called, there were ayes, 40; nays, 31; viz:

Those who voted in the affirmative were:

Messrs— Allin, Appleton, Bartlett of Griggs, Bean, Bell, Bennett, Best, Carothers, Clapp, Clark, Colton, Douglas, Elliott, Gray,	Messrs— Haugen, Holmes, Johnson, Lauder, Linwell, Marrinan, Mathews, McBride, McKenzie, Moer, Noble, Nomland, O'Brien,	Messrs— Parsons of Morton, Peterson, Powers, Powles, Richardson, Robertson, Rowe, Sandager, Slotten, Turner, Wallace, Wellwood, Mr. President.
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Those who voted in the negative were:

Messrs— Bartlett of Dickey, Blewett, Brown, Budge, Camp, Carland, Chaffee, Fay, Flemington, Gayton, Glick,	Messrs— Griggs, Harris, Hegge, Hoyt, Leach, Lohnes, Lowell, Meacham, McHugh, Miller,	Messrs— Parsons of Rolette, Purcell, Pollock, Ray, Scott, Shuman, Spalding, Stevens, Whipple, Williams.
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Absent and not voting:

Messrs— Almen, Paulson,	Messrs— Selby,	Messrs— Rolfe.
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And so the motion to adopt section 180 prevailed.

Mr. Moer gave notice of motion to reconsider.

Mr. Spalding moved to strike out section one hundred and eighty-one (181).

Ayes and nays were demanded.

The roll being called there were ayes 25; nays, 46; viz:

Those who voted in the affirmative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Blewett,	Glick,	Moer,
Brown,	Harris,	O'Brien,
Budge,	Hoyt,	Parsons of Rolette,
Camp,	Leach,	Purcell,
Chaffee,	Lowell,	Pollock,
Clapp,	Meacham,	Ray,
Fay,	McKenzie,	Rowe,
Flemington,	Miller,	Spalding.
Gayton,		

Those who voted in the negative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Allin,	Haugen,	Powers,
Appleton,	Hegge,	Powles,
Bartlett of Dickey,	Holmes,	Richardson,
Bartlett of Griggs,	Johnson,	Robertson,
Bean,	Lauder,	Sandager,
Bell,	Linwell,	Scott,
Bennett,	Lohnes,	Shuman,
Best,	Marrinan,	Slotten,
Carland,	Mathews,	Stevens,
Carothers,	McBride,	Turner,
Clark,	McHugh,	Wallace,
Colton,	Noble,	Wellwood,
Douglas,	Nomland,	Whipple,
Elliott,	Parsons of Morton,	Williams,
Gray,	Peterson,	Mr. President.
Griggs,		

Absent and not voting:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Almen,	Rolfe,	Selby.
Paulson,		

And so the motion to strike out section one hundred and eighty-one was lost.

Mr. Holmes offered the following as a substitute for section one hundred and eighty-one (181):

All improvements on land shall be assessed in accordance with section 180, but plowing shall not be construed as an improvement or add to the value of land for the purposes of assessment.

Which motion prevailed.

Mr. Spalding moved that Rule No. 31 be amended so that it will require ten instead of two to call the roll,

Which motion was ruled out of order.

Section one hundred and eighty-two (182) was adopted.

Mr. Miller moved to strike out the proviso in the last two lines of section one hundred and eighty-three (183).

Which motion prevailed.

Mr. Wallace moved to amend the section as follows:

Strike out in the sixth line the words "the same" and insert "such assessed valuation," and in the eighth line after the word "located" insert "as a basis for taxation of such property."

Mr. Purcell moved as an amendment that the recommendations of the committee be concurred in.

Which motion prevailed,

And the original motion as amended prevailed.

Mr. Scott moved to amend the section by adding thereto the following:

*Provided, However, that the Legislative Assembly may by law accept and provide for a tax, based on gross earnings in lieu of all other taxes, to be assessed against the roadway, roadbed, rolling stock, franchise and all other and only such property as is owned by any railroad corporation, and used by it in the actual operation of its road.*

Mr. Lauder moved to lay the amendment on the table.

Ayes and nays were demanded.

The roll being called, there were ayes, 42; nays, 24; viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Allin,	Elliott,	Parsons of Morton,
Appleton,	Flemington,	Peterson,
Bartlett of Dickey,	Gray,	Powers,
Bartlett of Griggs,	Haugen,	Powles,
Bean,	Johnson,	Richardson,
Bell,	Lauder,	Robertson,
Bennett,	Linwell,	Rowe,
Best,	Marrinan,	Sandager,
Carland,	Mathews,	Shuman,
Carothers,	McBride,	Slotten,
Clark,	McKenzie,	Turner,
Clapp,	Noble,	Wallace,
Colton,	Nomland,	Wellwood,
Douglas,	O'Brien,	Mr. President.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Blewett,	Griggs,	Parsons of Rolette.
Brown,	Harris,	Purcell,
Budge,	Hoyt,	Pollock,
Camp,	Lohnes,	Ray,
Chaffee,	Lowell,	Scott,
Fay,	Meacham,	Stevens,
Gayton,	McHugh,	Whipple,
Glick,	Moer,	Williams,

Absent and not voting:

Messrs—	Messrs—	Messrs—
Almen,	Leach,	Rolfe,
Hegge,	Miller,	Selby,
Holmes,	Paulson,	Spalding.

And so the motion to lay the amendment on the table prevailed.

And section one hundred and eighty three (183) was adopted as amended.

Sections one hundred and eighty-four (184) and one hundred and eighty-five (185) were adopted.

Mr. Spalding moved to amend Rule No. 31 by striking out the

word "two" in line two and inserting in lieu thereof the word ten."

Which motion was lost.

Mr. Johnson moved to amend section one hundred and eighty (180) by striking out the semicolon in line five and inserting it in line four after the word "taxation."

Which motion prevailed.

Mr. Peterson moved that article XI, as amended, be adopted.  
Which motion prevailed.

And Article XI, as amended, was adopted.

Mr. President announced an informal recess for ten minutes.

Mr. President called Mr. Stevens to the chair.

Mr. McHugh moved to adjourn.

Which motion was lost.

#### ARTICLE XII.

Mr. Scott moved to amend section one hundred and eighty-six by adding at the end thereof the following:

But the issuing of new bonds to refund existing indebtedness shall not be construed to be any part or portion of said sum of \$200,00.

Which motion prevailed, and

The section as amended was adopted.

Mr. Miller moved that the recommendation of the committee as to section one hundred and eighty-seven (187) be concurred in.

Which motion prevailed

And the section as recommended to be amended by the committee was adopted.

Mr. Miller moved that the recommendation of the committee as to section one hundred and eighty-nine (189) be concurred in.

Which motion prevailed, and

The section as recommended to be amended by the committee was adopted.

Mr. Miller moved that the recommendation of the committee as to section one hundred and ninety (190) be concurred in.

Which motion prevailed, and

The section as recommended to be amended by the committee was adopted.

Mr. Bartlett moved that the recommendations of the committee as to section one hundred and ninety-one (191) be concurred, in

Which motion prevailed, and

The section as recommended to be amended by the committee was adopted.

Mr. Holmes moved to adopt the article as amended.

Which motion prevailed, and

Article XII as amended was adopted. .



## ARTICLE XIII.

Sections one hundred and ninety-three (193) and one hundred and ninety-four (194) were adopted.

Mr. McHugh moved to amend section one hundred and ninety-five (195) by adding thereto the following:

And no other organized body of armed men shall be permitted to perform military duty in the state, except the army of the United States, without the proclamation of the Governor of the state.

Which amendment prevailed and the section as amended was adopted.

Sections one hundred and ninety-six (196), one hundred and ninety-seven (197) and one hundred and ninety-eight (198) were adopted.

Mr. Noble moved that the article as amended be adopted.

Which motion prevailed and

Article XIII was adopted.

## ARTICLE XIV.

Sections one hundred and ninety-nine (199), two hundred (200), two-hundred and one (201), two hundred and two (202), two hundred and three (203), two hundred and four (204), two hundred and five (205) and two hundred and six (206) were adopted.

Mr. Turner moved that Article XIV be adopted.

Which motion prevailed, and

Article XIV was adopted.

## ARTICLE XV.

Mr. Williams moved to amend Article XV by striking out in line three the words, "a majority," and inserting therefor the words "two-thirds."

Mr. Lauder moved to lay the amendment on the table.

Which motion prevailed.

Mr. Pollock moved to adopt Article XV.

Which motion prevailed, and

Article XV was adopted.

## ARTICLE XVI.

Mr. Bartlett moved that the rules be suspended, in order that Article XVI may be adopted as a whole.

Which motion was lost.

Mr. Harris moved that the recommendations of the committee as to section two hundred and seven (207) be concurred in.

Mr. Camp moved as an amendment that so much of the recommendations of the committee be concurred in as refer to striking out, and that a period be inserted in lieu of the semicolon at end of the words, "granting the same."

Which motion prevailed.

Mr. Noble moved that the rules be suspended so that section two hundred and eight (208) can be adopted as a whole.

Mr. Camp moved sections two hundred and eight (208) and two hundred and nine (209) be amended as follows:

That the words "territorial debts and liabilities" printed in capitals on page 35, be stricken out.

That words "section 208" be stricken out, and the word "third" inserted in lieu thereof.

That words "section 209" be stricken out and that what is printed as "section 209" be made part of third subdivision of section 207.

Which motion prevailed, and

Sections two hundred and eight and two hundred and nine as amended were adopted.

Sections two hundred and ten (210) and two hundred and eleven (211) were adopted.

Mr. Purcell moved that the article as amended be adopted.

Which motion prevailed, and

Article XVI was adopted.

#### ARTICLE XVII.

Mr. Bartlett of Dickey, moved that the recommendations of the committee as to sections two hundred and twelve (212) be concurred in.

Which motion prevailed, and

The section as recommended to be amended by the committee was adopted.

Section two hundred and thirteen (213) was adopted.

Mr. Miller moved that the recommendations of the committee as to section two hundred and fourteen (214) be concurred in.

Which motion prevailed, and

The section as recommended by the committee was adopted.

Section two hundred and fifteen (215) was adopted.

Mr. Carland moved that section two hundred and sixteen (216) be amended by adding at the end thereof the words "for irrigation, mining and manufacturing purposes."

Which motion prevailed.

Mr. Scott moved to further amend the section by adding after the word "and," in the first line, the word "natural."

Which motion prevailed.

Mr. Camp moved to strike out the word "ways," in line one of the same section, and insert therefor the word "courses."

Which motion prevailed, and

The section as amended was adopted.

Mr. Blewett moved that the recommendations of the committee as to section two hundred and seventeen (217) be concurred in.

Mr. Clapp moved to amend the section as follows: Add after the word "ability" the following: "(If an oath). So help me God. (If an affirmation). Under the pains and penalties of perjury."

Mr. Johnson offered the following substitute for section two hundred and seventeen (217):

Members of the Legislative Assembly and the officers thereof, before they enter upon their official duties, shall take or subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of North Dakota, and will faithfully discharge the duties of (senator, representative or officer) according to the best of my abilities, and that I have not knowingly or intentionally paid or contributed anything, or made any promise in the nature of a bribe, to directly or indirectly influence any vote at the election at which I was chosen to fill said office, and have not accepted, nor will I accept or receive directly or indirectly, any money, pass or other valuable thing from any corporation, company or person, for any vote or influence I may give or withhold, on any bill or resolution, or appropriation, or for any other official act.

Mr. Noble moved to lay the substitute on the table.

Ayes and nays were demanded.

The roll being called there were ayes, 45; nays, 19; viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Allin,	Douglas,	Miller,
Appleton,	Elliott,	Moer,
Bartlett of Griggs,	Fay,	Noble,
Bell,	Flemington,	O'Brien,
Bennett,	Gayton,	Parson of Rolette,
Best,	Glick,	Powles,
Blewett,	Harris,	Purcell,
Brown,	Hegge,	Pollock,
Budge,	Holmes,	Ray,
Carland,	Hoyt,	Rowe,
Carothers,	Leach,	Sandager,
Chaffee,	Lowell,	Scott,
Clapp,	Marrinan,	Shuman,
Clark,	Mathews,	Stevens,
Colton,	Meacham,	Whipple.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Bartlett of Dickey,	Nomland,	Spalding,
Camp,	Parsons of Morton,	Turner,
Griggs,	Peterson,	Wallace,
Haugen,	Powers,	Wellwood,
Johnson,	Richardson,	Williams,
McBride,	Slotten,	Mr. President.
McKenzie,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Almen,	Linwell,	Robertson,
Bean,	Lohnes,	Rolfe,
Gray,	McHugh,	Selby.
Lauder,	Paulson,	

And so the motion to lay the substitute on the table was lost.

Mr. Johnson offered another substitute which was the same as the one above voted down, with the exception that the word "pass" was stricken out.

Mr. Scott moved that the substitute offered by Mr. Johnson be laid on the table.

Which motion prevailed.

Section two hundred and seventeen (217) was adopted.

Mr. Williams moved that the following be accepted as an additional section of the article:

The real and personal property of any woman in this state, acquired before marriage, and all property to which she may after marriage become in any manner rightfully entitled, shall be her separate property, and shall not be liable for the debts of her husband.

Which motion prevailed.

Mr. Parsons of Morton moved that the following be adopted as an additional section of the Article to become section two hundred and eighteen.

The exchange of black lists between corporations shall be prohibited.

Ayes and nays were demanded.

The roll being called there were ayes, 32; nays, 30; viz:

Those who voted in the affirmative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Allin,	Marrinan,	Rowe,
Best,	Meacham,	Sandager,
Colton,	McBride,	Shuman,
Flemington,	Miller,	Slotten,
Griggs,	Moer,	Spalding,
Harris,	Nomland,	Stevens,
Haugen,	Parsons of Morton,	Turner,
Johnson,	Powers,	Wallace,
Lander,	Powles,	Wellwood,
Lohnes,	Ray,	Mr. President.
Lowell,	Richardson,	

Those who voted in the negative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Appleton,	Carothers,	Matthews,
Bartlett of Dickey,	Chaffee,	McKenzie,
Bartlett of Griggs,	Clapp,	Noble,
Bean,	Clark,	O'Brien,
Rennett,	Elliott,	Parsons of Rolette,
Blewett,	Fay,	Purcell,
Brown,	Gayton,	Pollock,
Budge,	Hegge,	Scott,
Camp,	Holmes,	Whipple,
Carland,	Leach,	Walliams.

Absent and not voting:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Almen,	Hoyt,	Peterson,
Bell,	Linwell,	Robertson.

Douglas,  
Glick,  
Gray,

McHugh,  
Paulson,

Rolfe,  
Selby.

And so the section was adopted.

Mr. Moer moved the adoption of the following as an additional section of the article:

The members of the Legislative Assembly and all other state and county officials are forever prohibited from accepting passes from any railroad or other transportation company. A violation of this section shall be ground for impeachment and removal from office.

Mr. Williams offered the following as a substitute for the motion of Mr. Moer:

SEC. —. No railroad or other transportation company shall grant free passes, or tickets, or passes or tickets at a discount, to members of the Legislative Assembly, or to any state, county or municipal officer, and the acceptance of any such pass or ticket by a member of the Legislative Assembly, or any such officer, shall be a forfeiture of his office.

Which substitute was adopted.

Ayes and nays were demanded.

The roll being called there were ayes, 42, nays, 24; viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Appleton,	Haugen,	Powles,
Bartlett of Dickey,	Holmes,	Purcell,
Best,	Johnson,	Ray,
Brown,	Lauder,	Richardson.
Budge,	Linwell,	Rowe,
Camp,	Marrinan,	Sandager,
Carland,	Meacham,	Scott,
Carothers,	McBride,	Shuman,
Clark,	Miller,	Slotten,
Flemington.	Moer,	Spalding,
Gayton,	Nomland,	Turner,
Glick,	Parsons of Morton,	Wellwood,
Gray,	Peterson,	Williams,
Griggs,	Powers,	Mr. President.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Allin,	Elliott,	McKenzie,
Bartlett of Griggs,	Fay,	Noble,
Bean,	Harris,	O'Brien,
Bennett,	Hegge,	Parsons of Rolette,
Blewett,	Hoyt,	Pollock,
Chaffee,	Leach,	Stevens,
Clapp,	Lowell,	Wallace,
Colton,	Mathews,	Whipple.
Douglas,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Almen,	McHugh,	Rolfe,
Bell,	Paulson,	Selby.
Lohnes,	Robertson,	

And so the section was adopted.

Mr. Leach moved to adjourn.

Mr. Scott moved that the vote by which the last measure was adopted be reconsidered.

Mr. Williams moved to lay the motion on the table.

Which motion prevailed.

Mr. Moer moved that Article XVIII as amended be adopted.

Which motion prevailed.

Mr. Moer moved that the vote by which Article XVII was adopted be reconsidered and that the motion to reconsider be laid on the table.

Mr. Leach raised a point of order that there was a motion to adjourn before the house.

The chair decided the point well taken.

And the motion to adjourn being put, prevailed.

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#### EVENING SESSION.

The Convention assembled at 8 o'clock p. m., pursuant to adjournment.

Mr. Miller moved to proceed to the consideration of article XVII,

Which motion prevailed.

#### ARTICLE XVIII.

Mr. Allin moved to amend the third subdivision, as follows:

Strike out the word "and" between Fertile and Glenwood, and insert after the word Glenwood, in the fourth line, "and the town of Park River."

Which motion prevailed.

Mr. Marrinan moved to amend the second subdivision by striking out the word between "Ackton" and St. Andrews and inserting the words "and Grafton" after the words St. Andrews.

Which motion prevailed.

Mr. Bell moved to further amend the subdivision by adding after the word "Ardock" the words "and the village of Ardock."

Which motion prevailed.

Mr. Allen moved to further amend the second subdivision by inserting after the word "Harrison" the words "village of Minto."

Mr. Miller moved that the ninth subdivision be amended by inserting after the word "Fargo," in the second line, the words, "and the fractional part of townships 139-48."

Which motion prevailed.

Mr. Harris moved to adopt Article XVIII as amended.

Which motion prevailed, and

Article XVIII was adopted.

Mr. Miller moved to proceed to the consideration of Article XIX,

Which motion prevailed.

Mr. Bartlett moved that the rules be suspended and that the minority report of the special committee to which was referred the communications in reference to the location of public institutions, be now received.

Mr. Stevens moved to lay the motion on the table.

Ayes and nays demanded.

The roll being called there were ayes 45, nays 28, viz:

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Allin,	Johnson,	Peterson,
Appleton,	Lauder,	Powers,
Bartlett of Griggs,	Linwell,	Purcell,
Bell,	Marrinan,	Pollock,
Bennett,	Mathews,	Robertson,
Beet,	McBride,	Richardson,
Budge,	Noble,	Slotten,
Carothers,	Nomland,	Turner,
Douglas,	O'Brien,	Wallace.
Haugen,		

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Bartlett of Dickey,	Gray,	Parsons of Rolette,
Bean,	Griggs,	Paulson,
Blewett,	Harris,	Powles,
Brown,	Hegge,	Ray,
Camp,	Holmes,	Rolfe,
Carland,	Hoyt,	Rowe,
Chaffee,	Leach,	Sandager,
Clapp,	Lohnes,	Scott,
Clark,	Lowell,	Shuman,
Colton,	Meacham,	Spalding.
Elliott,	McHugh,	Stevens,
Fay,	McKenzie,	Wellwood,
Flemington,	Miller,	Whipple,
Gayton,	Moer,	Williams,
Glick,	Parsons of Morton,	Mr. President.

Absent and not voting:

Mr. Alman,                      Mr. Selby.

And so the motion to lay on the table prevailed.

Mr. Miller moved to now proceed to the consideration of Article XIX.

Which motion prevailed.

Mr. Bartlett of Griggs, moved that the minority report of the Committee on Public Institutions be substituted for Article XIX.

Mr. Williams moved to lay the motion on the table.

Ayes and nays demanded.

The roll being called there were ayes, 44; nays, 28, viz:

Those voting in the affirmative were:

Messrs—	Messrs—	Messrs—
Bartlett of Dickey,	Gray,	Parsons of Rolette,
Bean,	Griggs,	Paulson,

Blewett,	Harris,	Powles,
Brown,	Hegge,	Ray,
Camp,	Holmes,	Rolfe,
Carland,	Hoyt,	Rowe,
Chaffee,	Leach,	Sandager,
Clapp,	Lohnee,	Shuman,
Clark,	Lowell,	Spalding,
Colton,	Meacham,	Stevens,
Elliott,	McHugh,	Wellwood,
Fay,	McKenzie,	Whipple.
Flemington,	Miller,	Williams.
Gayton,	Moer,	Mr. President.
Glick,	Parsons of Morton,	

Those who voted in the negative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Allin,	Johnson,	Peterson,
Appleton,	Lauder,	Powers,
Bartlett of Griggs,	Linwell,	Purcell,
Bell,	Marrinan,	Pollock,
Bennett,	Mathews,	Richardson,
Best,	McBride,	Robertson,
Budge,	Noble,	Slotten,
Carothers,	Nomland,	Turner,
Douglas,	O'Brien,	Wallace,
Haugen,		
Absent and not voting.		

Mr. Selby,

Messrs Almen and Scott paired.

And so the motion to lay on the table prevailed.

Mr. Griggs moved to amend the article by inserting before the first subdivision the following:

“The following article shall be submitted as a separate article to be voted on separately.”

Mr. Miller moved to lay the amendment on the table.

Ayes and nays demanded.

The roll being called, there were ayes 41; nays 31, viz :

Those who voted in the affirmative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Bartlett of Dickey.	Gray,	Paulson,
Bean,	Griggs,	Powles,
Blewett,	Harris,	Ray,
Brown,	Hegge,	Rolfe,
Camp,	Holmes,	Rowe,
Carland,	Hoyt,	Sandager,
Chaffee,	Leach,	Shuman,
Clapp,	Lowell,	Spalding,
Clark,	Meacham,	Stevens,
Elliott,	McHugh,	Wellwood,
Fay,	Miller,	Whipple,
Flemington,	Moer,	Williams,
Gayton,	Parsons of Morton.	Mr. President.
Glick,	Parsons of Rolette,	

Those who voted in the negative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Allin,	Johnson,	O'Brien,
Appleton,	Lauder,	Peterson,



Bartlett of Griggs.	Linwell,	Powers,
Bell,	Lohnes,	Purcell,
Bennett,	Marrinan,	Pollock,
Best,	Mathews,	Richardson,
Budge,	McBride,	Robertson,
Carothers,	McKenzie,	Slotten,
Colton,	Noble,	Turner,
Douglass,	Nomland,	Wallace,
Haugen.		

Absent and not voting:

Mr. Selby,

Messrs. Almen and Scott paired.

And so the motion to lay on the table prevailed.

Mr. Williams moved the previous question on the motion of Mr. Miller, and the question being shall the main question be put, the ayes and nays were demanded.

The roll being called, there were ayes, 49; nays, 24, viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Appleton,	Glick,	Parsons of Rolette,
Bartlett of Dickey,	Gray,	Paulson,
Bartlett of Griggs,	Griggs,	Powles,
Bean,	Harris,	Ray,
Best,	Hegge,	Richardson,
Blewett,	Holmes,	Rolfe,
Brown,	Hoyt,	Rowe,
Camp,	Leach,	Sandager,
Carland,	Lohnes,	Scott,
Chaffee,	Lowell,	Stuman,
Clapp,	Meacham,	Spalding,
Clark,	McHugh,	Stevens,
Colton,	McKenzie,	Wellwood,
Elliott,	Miller,	Whipple,
Fay,	Moer,	Williams,
Flemington,	Parsons of Morton,	Mr. President.
Gayton,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Allin,	Lauder,	Peterson,
Bell,	Linwell,	Powers,
Bennett,	Marrinan,	Purcell,
Budge,	Mathews,	Pollock,
Carothers,	McBride,	Robertson,
Douglas,	Noble,	Slotten,
Haugen,	Nomland,	Turner,
Johnson,	O'Brien,	Wallace.

Absent and not voting:

Mr. Selby,

Messrs. Almen and Scott paired.

And so the motion to put the main question prevailed.

The motion of Mr. Miller then being put, prevailed,

And the Convention proceeded to the consideration of Article XIX.

Mr. Purcell moved that section two hundred and nineteen (219) be stricken out,

Which motion was lost.

Mr. Miller moved that the recommendations of the committee be concurred in and that the section be adopted.

Mr. Turner moved as an amendment that all after the word "named" in the first line down to the first subdivision be stricken out, and all after the first subdivision be stricken out.

Mr. Williams moved to lay the motion on the table.

Which motion prevailed.

Mr. Spalding moved the previous question, and the question being shall the main question be now put, a vote being taken, prevailed, and the question recurring on the motion of Mr. Miller,

The ayes and nays were demanded.

The roll being called there were ayes, 43; nays, 28, viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Bartlett of Dickey,	Griggs,	Parsons of Rolette,
Bean,	Harris,	Paulson,
Blewett,	Hegge,	Powles,
Brown,	Holmes,	Ray,
Camp,	Hoyt,	Rolfe,
Carland,	Leach,	Rowe,
Chaffee,	Lohnes,	Sandager,
Clapp,	Lowell,	Shuman,
Clark,	Meacham,	Spalding,
Elliott,	McHugh,	Stevens,
Fay,	McKenzie,	Wellwood,
Flemington,	Miller,	Whipple,
Gayton,	Moer,	Williams,
Glick,	Parsons of Morton,	Mr. President.
Gray,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Allin,	Haugen,	O'Brien,
Appleton,	Johnson,	Powers,
Bartlett of Griggs,	Lauder,	Purcell,
Bell,	Linwell,	Pollock,
Bennett,	Marrinan,	Richardson,
Best,	Mathews,	Robertson,
Budge,	McBride,	Slotten,
Carothers,	Noble,	Turner,
Colton,	Nomland,	Wallace.
Douglas,		

Absent and not voting:

Mr. Peterson, Mr. Selby,

Messrs. Almen and Scott being paired.

And so section 219 as recommended to be amended by the committee was adopted.

Mr. Miller moved that section two hundred and twenty (220) be amended by adding after the word "educational," in line two, the words "or charitable."

Which motion prevailed.

Mr. Spalding moved to amend the section by adding after the word "electors," in the third line of the second subdivision, the words "of said county."

Ayes and nays were demanded.

The roll being called, there were ayes, 42; nays, 29; viz.:

Those who voted in the affirmative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Bartlett of Dickey,	Gray,	Parsons of Morton,
Bean,	Griggs,	Parsons of Rolette,
Blewett,	Harris,	Paulson,
Brown,	Hegge,	Ray,
Camp,	Holmes,	Rolfe,
Carland,	Hoyt,	Rowe,
Chaffee,	Leach,	Sandager,
Clapp,	Lohnes,	Shuman,
Clark,	Lowell,	Spalding,
Elliott,	Meacham,	Stevens,
Fay,	McHugh,	Wellwood,
Flemington,	McKenzie,	Whipple,
Gayton,	Miller,	Williams,
Glick,	Moer,	Mr. President.

Those who voted in the negative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Allin	Haugen,	Powers,
Appleton,	Johnson,	Powles,
Bartlett of Griggs,	Lauder,	Purcell,
Bell,	Liuwell,	Pollock,
Bennett,	Marrinan,	Richardson,
Best,	Mathews,	Robertson,
Budge,	McBride,	Slotten,
Carothers,	Noble,	Turner,
Colton,	Nomland,	Wallace.
Douglas,	O'Brien,	

Absent and not voting:

Mr. Peterson,                      Mr. Selby.

Mr. Almen and Scott being paired.

And so the motion to adopt section two hundred and twenty as amended prevailed.

Mr. Miller moved that Article XIX as amended be adopted and referred to the Committee on Enrolling and Engrossing.

Ayes and nays demanded.

The roll being called, there were ayes 43, nays 28, viz:

Those who voted in the affirmative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Bartlett of Dickey,	Griggs,	Parsons of Rolette,
Bean,	Harris,	Paulson,
Blewett,	Hegge,	Powles,

Brown,	Holmes,	Ray,
Camp,	Hoyt,	Rolfe,
Carland,	Leach,	Rowe,
Chaffee,	Lohnes,	Sandager,
Clapp,	Lowell,	Shuman.
Clark,	Meacham,	Spalding,
Elliott,	McHugh,	Stevens,
Fay,	McKenzie,	Wellwood,
Flemington,	Miller,	Whipple,
Gayton,	Moer,	Williams,
Glick,	Parsons of Morton,	Mr. President.
Gray,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Allin,	Haugen,	O'Brien,
Appleton,	Johnson,	Powers,
Bartlett of Griggs,	Lauder,	Purcell,
Bell,	Linwell,	Pollock,
Bennett,	Marrinan,	Richardson,
Best,	Mathews,	Robertson,
Budge,	McBride,	Slotten,
Carothers,	Noble,	Turner,
Colton,	Nomland,	Wallace.
Douglas,		

Absent and not voting:

Mr. Peterson, Mr. Selby.

Messrs. Almer and Scott being paired.

Messrs. Bean, Camp, Johnson, Lauder, O'Brien, Pollock, Stevens, Turner and Wallace explaining their vote.

And so the motion prevailed, and

Article XIX as amended was adopted.

Mr. McHugh moved that the vote by which Article XIX was adopted be reconsidered and that the motion to reconsider be laid on the table.

Which motion prevailed.

#### ARTICLE XX.

Mr. Miller moved that Article XX be adopted.

Mr. Clapp moved as an amendment that the recommendations of the committee as to this section be adopted.

Which amendment was accepted.

And the original motion as amended was adopted.

Mr. Moer moved to take a recess for ten minutes.

Which motion was accepted.

Mr. President called Mr. Bartlett of Griggs to the chair.

#### SCHEDULE.

Sections one (1), two (2), three (3), four (4), five (5) and six (6) were adopted.

Mr. Purcell moved that the first six sections of the schedule be adopted and sent to the engrossing clerks.

Which motion prevailed.

Sections seven (7), eight (8) and nine (9) were adopted.

Mr. Spalding moved to strike out in section ten (10) all after the word "elected" in line twelve.

Mr. Lauder moved as an amendment to strike out all after the word "elected" in third line from the last and insert the following:

There shall be elected in each organized county in this state at the election to be held for the ratification of this Constitution a clerk of the district court who shall hold his office under said election until his successor is duly elected and qualified.

Which amendment prevailed.

Mr. Johnson moved to amend the amendment by inserting after the word "ratification" the words "or rejection."

Which motion was lost and

The motion of Mr. Spalding as amended prevailed.

Mr. Carland moved to amend section ten (10) by adding to it as amended, the following:

The judges of the district court shall have power to appoint county district attorneys in any organized counties where no such attorneys have been elected, which appointment shall continue until the general election to be held in 1890, and until a successor is elected and qualified.

Which motion prevailed, and

The section as amended was adopted.

Sections eleven (11), twelve (12), thirteen (13), fourteen (14), fifteen (15), sixteen (16), seventeen (17) were adopted.

Mr. Bartlett moved to suspend the rules and that sections eleven (11), twelve (12), thirteen (13), fourteen (14), fifteen (15), sixteen (16) and seventeen (17) be adopted and sent to the engrossing clerks.

Which motion prevailed.

Sections eighteen (18) and nineteen (19) were adopted.

Mr. Pollock moved to amend section twenty (20) as follows:

Strike out the word "yes" in the fourth line, substitute the word "against" for the word "for" in the fifth line, and strike out the word "no" in the sixth line.

Which motion prevailed and the section as amended was adopted.

Mr. Purcell moved that section twenty-one (21) be adopted and sent to the engrossing clerks.

Which motion prevailed and

The section was adopted.

Section twenty-two (22) was adopted.

Mr. Carland offered the following and moved its adoption as section twenty-three (23) of the schedule:

This Constitution shall, after its enrollment, be signed by the President of this Convention and the Chief Clerk thereof and such delegates who desire to sign the same, whereupon it shall be deposited in the office of the Secretary

of the Territory, where it may be signed at any time by any delegate who shall be prevented from signing the same for any reason at the time of the adjournment of this Convention.

Which motion prevailed, and  
The proposed section was adopted.

Mr. Bell moved that the following be adopted as an additional section of Article XIX:

No appropriation for the erection of any public building not heretofore authorized by law shall be made by the legislature until the needs of charity or the requirements of the public service demands it, and the erection of no more than one institution shall be provided for at any single session of the legislative assembly.

Mr. Scott moved to lay the motion on the table.

Ayes and nays were demanded.

The roll being called, there were ayes, 26; nays, 42; viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Bartlett of Dickey,	Gray,	Rowe,
Bean,	Harris,	Sandager,
Blewett,	Hoyt,	Scott,
Camp,	Lowell,	Shuman,
Chaffee,	Meacham,	Spalding,
Elliott,	McHugh,	Stevens,
Flemington,	McKenzie,	Wellwood,
Gayton,	Ray,	Whipple.
Glick,	Robertson,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Allin,	Fay,	O'Brien,
Appleton,	Griggs,	Parsons of Morton,
Bartlett of Griggs,	Haugen,	Parsons of Rolette,
Bell,	Johnson,	Peterson,
Bennett,	Lauder,	Powers,
Best,	Leach,	Purcell,
Brown,	Linwell,	Pollock,
Budge,	Marrinan,	Richardson,
Carland,	Mathews,	Slotton,
Carothers,	McBride,	Turner,
Clapp,	Miller,	Wallace,
Clark,	Moer,	Williams,
Colton,	Noble,	Mr. President.
Douglas,	Nomland,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Almen,	Lohnes,	Rolfe,
Hegge,	Paulson,	Selby.
Holmes,	Powles,	

And so the motion to lay on the table was lost.

And the motion of the gentleman from Walsh prevailed.

Mr. Bartlett of Dickey moved to adjourn.

Mr. Flemington moved as an amendment that when we adjourn it be to meet again to-morrow at 2 o'clock p. m.

Mr. Pollock moved to amend by substituting "10 o'clock a. m." for "2 o'clock p. m."

Which motion was lost, and

Mr. Flemington's motion was lost, and

Mr. Bartlett withdrew his motion.

Mr. Purcell moved that the vote by which the section offered by Mr. Bell was adopted be reconsidered.

Which motion prevailed.

Mr. Purcell moved to lay the amendment of Mr. Bell on the table.

Which motion prevailed.

Mr. Camp moved that the following be adopted as section twenty-four (24) of the schedule:

In case the Territorial officers of the Territory of Dakota or any of them who are now required by law to report to the Governor of the Territory annually or biennially, shall prepare and publish such reports covering the transactions of their offices up to the time of the admission of the State of North Dakota into the Union; the Legislative Assembly shall make sufficient appropriation to pay one-half of the cost of such publication.

Which motion prevailed and the proposed section was adopted.

Mr. Carland moved to amend section one hundred and three (103) by striking out in the second line the words, "each within its territorial limits."

Mr. Moer moved the previous question, and the question being shall the main question be now put, a vote being taken prevailed, and

The motion of Mr. Carland prevailed.

Mr. Miller moved to adopt section (103) as amended.

Which motion prevailed.

Mr. Parsons moved to adjourn,

Which motion was lost.

Mr. Miller moved that section seventeen, (17) as amended, be adopted.

Mr. Moer moved that the vote by which section two hundred and twenty (220) was adopted be reconsidered.

Which motion prevailed.

Mr. Moer moved to strike out the section.

Mr. Scott moved the previous question and the question being shall the main question be now put, a vote being taken prevailed.

Ayes and nays were demanded on the main question.

The roll being called, there were ayes, 43, nays 21, viz:

Those who voted in the affirmative were:

Messrs—

Allin,  
Appleton,  
Bartlett of Griggs,

Messrs—

Gayton,  
Glick,  
Griggs,

Messrs—

Noble,  
O'Brien,  
Parsons of Rolette,

Bean,	Harris,	Pollock,
Bell,	Holmes,	Ray,
Bennett,	Hoyt,	Rowe,
Best,	Lauder,	Sandager,
Blewett,	Leach,	Scott,
Budge,	Lowell,	Shuman,
Chaffee,	Marrinan,	Stevens,
Clapp,	Mathews,	Wallace,
Clark,	Meacham,	Wellwood,
Colton,	McKenzie,	Whipple,
Elliott,	Miller,	Mr. President,
Fay,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Bartlett of Dickey,	Johnson,	Powers,
Camp,	McBride,	Purcell,
Carland,	McHugh,	Richardson,
Carothers,	Moer,	Robertson,
Douglas,	Nomland,	Slotten,
Flemington,	Parsons of Morton,	Turner,
Haugen,	Peterson,	Williams,

Absent and not voting:

Messrs—	Messrs—	Messrs—
Almen,	Linwell,	Rolfe,
Brown,	Lohne,	Selby,
Gray,	Paulson,	Spalding.
Hegge,	Powles,	

Mr. Wallace explaining his vote.

And so the motion to strike out section two hundred and twenty prevailed.

Mr. Harris moved that Article XVII be adopted as amended.

Mr. Purcell moved the adoption of the following as an additional section:

#### MINORITY REPRESENTATION.

There shall be submitted at the same election at which this Constitution is submitted for rejection or adoption, Article —, entitled Minority Representation, in the same manner as the question on prohibition is submitted.

Which motion the chair declared lost.

Mr. Noble appealed from the decision of the chair,

Which appeal was not sustained.

Mr. Miller moved to adopt all that portion of Article IV which has not already been adopted.

Mr. Johnson introduced the following resolution and moved its adoption:

WHEREAS, The Hon. F. B. Fancher, President of this Convention, has in his trying position as our presiding officer, a situation of great delicacy and responsibility, acquitted himself with uniform courtesy, eminent fairness and infinite patience; and

WHEREAS, It is an honored and beautiful custom on the final adjournment of deliberative assemblies of this character to donate by resolution to honored and respected presiding officers, the chair they have occupied and the gavel they have wielded; therefore, be it

*Resolved*, That as a token of our respect and confidence, we hereby order



that the Chair he has so honorably filled and the gavel he has so ably and impartially wielded, be and is hereby presented to Hon. F. B. Fancher, President of the Constitutional Convention of North Dakota, assembled at Bismarck July 4, 1889.

Mr. Noble moved to include also all the permanent officers of the Convention.

Which amendment prevailed, and

The resolution as amended was adopted.

Mr. Harris moved to adopt the following as an additional section of the schedule:

The Governor and Secretary of the Territory are hereby authorized to make arrangements for the meeting of the first Legislature and the inauguration of the state government.

Which motion prevailed and the proposed section was adopted.

Mr. Allin moved to adjourn until 2 o'clock to-morrow.

Ayes and nays demanded.

The roll being call, there were ayes, 43; nays, 20, viz:

Those who voted in the affirmative were:

Messrs—

Allin,  
Bartlett of Dickey,  
Bartlett of Griggs,  
Bean,  
Bell,  
Bennett,  
Best,  
Carland,  
Carothers,  
Chaffee,  
Clapp,  
Clark,  
Colton,  
Fay,  
Flemington,

Messrs—

Gayton,  
Haugen,  
Holmes,  
Johnson,  
Lauder,  
Leach,  
Lowell,  
Marrinan,  
Mathews,  
McHugh,  
McKenzie,  
Nomland,  
O'Brien,  
Peterson,

Messrs—

Powers,  
Purcell,  
Pollock,  
Richardson,  
Robertson,  
Rowe,  
Shuman,  
Slotten,  
Spalding,  
Turner,  
Wallace,  
Wellwood,  
Whipple,  
Mr. President.

Those who voted in the negative were:

Messrs—

Appleton,  
Blewett,  
Budge,  
Camp,  
Douglas,  
Elliott,  
Glick,

Messrs—

Griggs,  
Harris,  
Hoyt,  
Meacham,  
McBride,  
Miller,  
Moer,

Messrs—

Noble,  
Parsons of Morton,  
Parsons of Rolette,  
Scott,  
Stevens,  
Williams.

Absent and not voting:

Messrs

Almen,  
Brown,  
Gray,  
Hegge,

Messrs—

Linwell,  
Lohnes,  
Paulson,  
Powels,

Messrs—

Rolfe,  
Sandager,  
Selby,

And so the motion to adjourn prevailed and the convention adjourned.

JOHN G. HAMILTON,  
Chief Clerk.

SATURDAY, AUGUST 17, 1889.

The Convention assembled at 2 o'clock p m., pursuant to adjournment.

The President presiding.

Prayer was offered by the chaplain.

The roll was called, all members absent being excused.

The reading of the Journal was dispensed with.

## PETITIONS, COMMUNICATIONS, ETC.

GRAND FORKS, N. D., Aug. 16, 1889.

*To the President of the Constitutional Convention:*

The Grand Forks Republican League Club in regular meeting assembled.  
*Resolved*, That we, the Grand Forks Republican League Club do most emphatically protest against inserting any clause in the Constitution now being framed by the Constitutional Convention at Bismarck, having for its object the location of the public institutions, and we pledge ourselves to vote and work against the Constitution unless said clause is eliminated therefrom.

THOS. W. NEVILLE,  
 Secretary.

Geo. B. WINSHIP,  
 President.

Mr. Williams moved to adopt the following as an additional article of the Schedule.

The Legislative Assembly shall provide for the editing, and for the publication in an independent volume, of this Constitution as soon as it shall take effect, and whenever it shall be altered or amended, and shall cause to be published in the same volume the Declaration of Independence, the Constitution of the United States and the Enabling Act.

Mr. Miller moved to adopt the proposed article.

Which motion prevailed.

## ORIGINAL RESOLUTIONS.

The Committee on Publication and Printing offered the following resolution:

*Resolved*, That the Committee on Reporting and Publication be authorized to have printed 1,000 copies of the proceedings and debates of this Convention.

Mr. Miller moved to lay the resolution on the table.

Which motion prevailed.

Mr. Parsons, of Rolette, offered the following resolution and moved its adoption:

*Resolved*, That the Constitution as adopted by this Convention be printed in each newspaper published in Dakota; that each paper be allowed \$20 for the publication of same, upon proper proof made to the Secretary of the State; hat the Legislature at its first session provide for the payment of same.

Mr. Miller moved to amend by striking out "\$20" and inserting in lieu thereof "\$10."

Mr. Stevens moved to lay the motion on the table.

Which motion was lost, and

The amendment of Mr. Miller prevailed; and

The original resolution as amended prevailed.

#### REPORT OF STANDING COMMITTEES.

The Committee on Accounts and Expenses submitted the following report:

MR. PRESIDENT:

Your Committee on Accounts and Expenses respectfully make this supplementary report; that there is due to

W. E. Semling, for services as clerk on committee on Revenue and Taxation from July 19, 1889, to August 1, 1889, inclusive, 14 days@ \$4...	\$56 00
W. E. Sembling, for services engrossing from August 15, 1889, to August 17, 1889, inclusive, 3 days@ \$6.....	18 00
M. P. Skeeles, for services engrossing August 17, 1 day@.....	6 00
C. W. Wagner, for services engrossing August 17, 1 day@.....	6 00

Which expenses must be assumed by the State of North Dakota.

O. G. MEACHAM,

Chairman.

Report adopted.

Mr. Harris moved to adopt both the original and supplementary reports of the Committee on Accounts and Expenses.

Which motion prevailed,

And the reports were adopted.

#### REPORTS OF SELECT COMMITTEES.

The Special Committee, to which was referred the telegrams, communications, etc., to the Convention, in reference to the location of public institutions, submitted the following majority and minority reports:

##### MAJORITY REPORT.

Report of the committee to whom was referred letters, telegrams, petitions and memorials on the subject of locating the state capital and public institutions.

MR. PRESIDENT:

The aforesaid committee beg leave to report as follows:

First. Although there are communications on both sides of the question, the preponderance, municipal and otherwise, is overwhelmingly against locating the capital and public institutions in the Constitution.

Second. The internal and external evidence indicates plainly that the commendations were in the main worked up by the Northern Pacific Railway corporation or by a narrow, local selfish mistaken qualification of favored communities, while the protests are in the main spontaneous, broad and patriotic expressions from the people.

Third. That we view with alarm the sure doom of the state treasury as foreshadowed in the following *naive* resolution of approval from Ransom county:

"Resolved, That it now becomes the duty of the voters of Ransom county to send such persons to the Legislature of our new state as will use every proper means to secure the buildings, etc."

One can hardly complain of the sincerity and logic of that resolution.

Instead of removing a fruitful course of corruption as the majority report claims, this article will fasten upon the state a powerful inducement to form a spoils ring in every legislature for log rolling and "going in for the old flag and a big appropriation."

Fourth. That this Convention owes it to the people of this state and to a proper regard for its own position in history to seriously and respectfully consider the objection urged against this article. That its effect on the Agricultural College is to dismember that institution and scatter its professorships and departments in remote parts of the state to grow up into so many useless high schools instead of a great seat of learning which should become the pride and glory of the state as contemplated by the munificence of the federal government.

Fifth. That inasmuch as many of these communications emphatically deny the right of this Convention to locate these institutions and regard the article a high-handed usurpation of their rights not contemplated by them in the election of May 14th.

Therefore, the article should at least be submitted as a separate article, like the article on Prohibition, so that the now evident and bitter hostility thereto will not result in defeating an otherwise very good Constitution and thus obstructing the march to statehood.

Sixth. That we read with deep humiliation in many of these communications from the people intimations of corruption and bribery and regret that such suspicions have found a lodgement in the minds of the people, as it will create distrust of the whole document and injure the fair name of the state both at home and abroad.

Seventh. The minority report relies very much for popular support on the hypothesis that our capital property of \$250,000 at Bismarck would become valueless unless the obnoxious article is included in the Constitution.

The premises do not justify such a conclusion.

The majority report says that "when the seat of government is changed the land reverts by the terms of the deed to the donors—(the building reverting with the land)."

That is like the news we used to get from Texas during the war: "Important, if true."

The committee have carefully examined the "terms of the deed" from the Northern Pacific Railroad Company to the Territory of Dakota.

It is recorded on Page 125, Vol. A, No. 4, miscellaneous records of Burleigh county.

The only limitation therein contained is as follows: "The premises hereinbefore described shall be held, used and disposed of by the party of the second part \* \* \* for the purpose of erecting and completing the Capitol building of the said Territory of Dakota upon the parcel of ground first hereinafter described."

As soon as the buildings were erected and completed this condition was fulfilled, and the title vested absolutely in the territory.

The territory could have conveyed a perfect title to all the property at any time subsequent to about 1885. South Dakota has now formally relinquished all and any share in this property, and North Dakota's title is absolute.

The claim of the minority that "It would open up the way to innumerable suits against the territory from the holders of warrantee deeds for lots purchased, who would have an equitable if not a legal demand for the return of their money," is unfortunate, to say the least.

In the first place, there are no "warrantee deeds" to these lots.

The capitol commissioners, when they conveyed these lots, very properly omitted to insert any warranty whatever.

The only words that appear in said deeds between the description of the lots and the attestation of the signatures are contained in a *habendum* clause which reads as follows: "To have and to hold the same with all the appurtenances thereto belonging to the party of the second part, their heirs and

assigns forever." Besides that, a state cannot be sued without giving its consent thereto.

Our Anglo-Saxon ancestors have from time immemorial maintained that principle and justified it on the maxim that "the king can do no wrong."

In the states of the American union the same policy has prevailed, and is abundantly justified on grounds of public policy and the general welfare of the state.

It is a remote alarm to fear that North Dakota will depart from the wholesome traditions.

Our land at Bismarck is valuable, simply on account of the Capital being there.

Any other community in the state would be glad to give us an equal area for the same purpose, and a like inflation of values would follow its location anywhere.

M. N. JOHNSON,  
J. F. SELBY,  
J. L. COLTON,  
Minority of the Committee.

#### MINORITY REPORT.

MR. PRESIDENT:

Your committee to whom was referred various memorials concerning the locating of public institutions, respectfully submit the following report:

The remonstrances against the action of this Convention have undoubtedly been inspired by a misapprehension of the facts, or a misunderstanding of the reasons for such actions. We pass by the threat contained in some of the memorials, that unless the Convention recedes from its position, the memorialists will defeat the Constitution. These threats cannot be the result of reflection, for if seriously made, they would imply that liberty of thought and a decent regard for the opinions of others had fallen to a low ebb indeed. In the history of Dakota, every quarrel, every antagonism of sections, almost every charge of corruption, bargain and sale, has grown out of the location of public institutions. A disgraceful dispute, lasting for years, costing the territory thousands of dollars, and which threatened the dismemberment of the Legislature itself, grew out of the location of the capital. There is scarcely an institution of the territory, the location of which has not demoralized the legislature, arrayed communities against each other, and in some cases called for military interference, to avoid actual bloodshed. Even so late as the meeting of our last general assembly, the strife over the location of an institution, threatened to disrupt the pleasant relations of two of our principal cities, and occupied the attention of the legislature for weeks, to the detriment of public interests. Your committee believe that the positive and final settlement of the many questions sure to arise in our first legislature over the location of public institutions, would be a blessing to the new state, a relief of the tax-payers, and an avoidance of local feuds and quarrels, which otherwise would plunge the state into confusion and extravagance, for the next ten years. It is perhaps natural that the opponents of this article should magnify the objections to it, but we protest against that representation of the motives and influences governing the majority which is contained in some of these memorials, and which has appeared in the columns of the press. The charges are not only untrue, but are grossly unjust to the members of this convention. The proposition submitted in this article is fair to all sections, recognizing every division of the territory, and will prove a measure of equity for the future, as well as for the present. Five of the new institutions are located in the northern part of the state, four in the central, and three in the southern; six are on the line of the great Manitoba system, four on the transcontinental line of the Northern Pacific, and two on the line of both roads. Five are in the thickly populated counties of the eastern border (the university makes six), three are in the central range of counties between the Red and the Missouri rivers, and two on or west of the Missouri. The Constitutional declaration that these institutions shall be located permanently in cer-

tain places, costs the tax-payers nothing. It affords no pretext for the erection of public buildings, any more than does the organic act which also provides for them. The Convention is at liberty to restrict the number of these institutions which shall be built in a given time, or the Legislature may do so at its first or any subsequent session. It simply disposes of quarrels over locating in the future. The plea that the people should vote on this matter cannot be made in entire good faith, for no member of the minority has offered an article proposing a vote on the location of the university, the hospital for the insane, the agricultural college or any other institution fixed by the article in question. The cry has been, and still is, to vote on the Capital location, and to leave other institutions to be located by the Legislature—a proposition which all experience proves to be fraught with the utmost danger to the peace and dignity of the state. So far as the seat of government is concerned, a recital of a few facts is sufficient to vindicate the majority in the action they have taken, in the minds of reasonable and unprejudiced men. The Capital was fixed at Bismarck on conditions that the citizens would contribute \$100,000 in money and 160 acres of land. This they did, adding to the quarter section demanded, another quarter section, making 320 acres of land altogether, donated to the territory. The building as it now stands with its steam heating fixtures, etc. has cost nearly \$200,000. Of this amount the territory has contributed about \$100,000. When the seat of government is changed, the land reverts by the terms of the deed to the donors. The result of such a change therefore would be to not only deprive the citizens who have contributed their means to the erection of this building of all they have expended, (the building reverting with the land) but would be absolutely abandoning and throwing away the two hundred and fifty thousand dollars worth of property now vested in the people. Not only this, but it would open up the way to innumerable suits against the territory from the holders of warrantee deeds for lots purchased who would have an equitable if not a legal demand for the return of their money. These are the facts briefly stated, and it seems to your committee that they should appeal to every delegate in this convention. Can we afford to sacrifice this large property to gratify any whim or local ambition? But this is not all. If the seat of government is changed a new building for capitol purposes must be erected. Is the new state so rich that it can afford to spend a quarter of a million dollars unnecessarily and for property thus thrown away? We think not. We believe the sober sense of the people will agree that such a course would be unwarranted, extravagant and reflective upon the judgment, if not the sincerity and honesty of this convention. Every other institution located and built by the territory remains undisturbed. Nobody thinks of demanding a vote on the University or the Insane Asylum. Why should the Capitol be made an exception.

If this article is adopted and ratified the state will start out free from quarrels, with no cause for sectional strife, with no necessity for increasing its debt, to provide buildings at the seat of government, and, as your committee most sincerely believe, with an era of peace and prosperity before it, all of which is respectfully submitted.

H. F. MILLER,  
Chairman.

Mr. Moer moved to dispense with the reading at length of the reports.

Which motion was withdrawn, and

Mr. Stevens renewed the motion.

Ayes and nays were demanded.

The roll being called, there were ayes, 24; nays, 42; viz:

Those who voted in the affirmative were:

Messrs—  
Bean,  
Blewett,

Messrs—  
Gayton,  
Glick,

Messrs—  
McKenzie,  
Miller,

Brown,	Gray,	Parsons of Morton,
Camp,	Griggs,	Parsons of Rolette.
Chaffee,	Harris,	Rolfe,
Clark,	Hoyt,	Sandager,
Elliott,	Leach,	Stevens,
Fay,	Meacham,	Whipple.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Allin,	Johnson,	Purcell,
Appleton,	Lauder,	Pollock,
Bartlett of Dickey,	Linwell,	Ray,
Bartlett of Griggs,	Lowell,	Richardson,
Bennett,	Marrinan,	Robertson,
Best,	Mathews,	Rowe,
Budge,	McHugh,	Selby,
Carland,	Moer,	Shuman,
Carothers,	Noble,	Slotten,
Colton,	Nomland,	Turner,
Douglas,	O'Brien,	Wallace,
Flemington,	Peterson,	Wellwood,
Haugen,	Powers,	Williams,
Holmes,	Powles,	Mr. President.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Almen,	Hegge,	Paulson,
Bell,	Lohnes,	Scott,
Clapp,	McBride,	Spalding.

Messrs Moer and Stevens explaining their votes.

And so the motion was lost.

Mr. Johnson moved to adopt the majority report, being the report signed by himself and others.

Mr. Stevens moved to lay the motion of Mr. Johnson on the table.

The ayes and nays were demanded.

The roll being called there were ayes, 38; nays, 31, viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Bean,	Gray,	Parsons of Rolette,
Blewett,	Griggs,	Ray,
Brown,	Harris,	Rolfe,
Camp,	Hegge,	Rowe,
Carland,	Holmes,	Sandager,
Chaffee,	Hoyt,	Shuman,
Clapp,	Leach,	Spalding,
Clark,	Lohnes,	Stevens,
Elliott,	Lowell,	Wellwood,
Fay,	Meacham,	Whipple,
Flemington,	McHugh,	Williams,
Gayton,	Miller,	Mr. President.
Glick,	Parsons of Morton,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Allin,	Johnson,	Powers,
Appleton,	Lauder,	Powles,
Bartlett of Dickey,	Linwell,	Purcell,

Bartlett of Griggs, Bennett, Best, Budge, Carothers, Colton, Douglas, Haugen,	Marrinan, Mathews, McKenzie, Noble, Nomland, O'Brien, Peterson,	Pollock, Richardson, Robertson, Selby, Slotten, Turner, Wallace.
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Absent and not voting:

Messrs— Almen, Gray,	Messrs— McBride, Moer,	Messrs— Paulson, Scott,
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And so the motion to lay the majority report on the table prevailed.

Mr. Miller moved to adopt the report which has been termed the minority report.

Ayes and nays demanded.

The roll being called there were ayes, 41; nays, 28; viz:

Those who voted in the affirmative were:

Messrs— Bartlett of Dickey, Bean, Blewett, Brown, Camp, Carland, Chaffee, Clapp, Clark, Elliott, Fay, Flemington, Gayton, Glick,	Messrs— Gray, Griggs, Harris, Hegge, Holmes, Hoyt, Leach, Lohnes, Lowell, Meacham, McHugh, McKenzie, Miller, Moer,	Messrs— Parsons of Morton, Parson of Rolette, Powles, Ray, Rolfe, Rowe, Sandager, Shuman, Stevens, Spalding, Wellwood, Whipple. Williams, Mr. President.
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Those who voted in the negative were:

Messrs— Allin, Appleton, Bartlett of Griggs, Best, Bennett, Budge, Carothers, Colton, Douglas, Haugen,	Messrs— Johnson, Lauder, Linwell, Marrinan, Mathews, Noble, Nomland, O'Brien, Peterson,	Messrs— Powers, Purcell, Pollock, Richardson, Robertson, Selby, Slotten, Turner, Wallace,
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Absent and not voting:

Messrs— Almen, Bell,	Messrs— McBride, Paulson,	Messrs— Scott,
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And so the motion to adopt the minority report prevailed.

Mr. Moer called up his motion to reconsider the vote by which section one hundred and eighty (180) was adopted.

Mr. Colton moved to lay the motion to reconsider on the table.



Ayes and nays were demanded.

Mr. Moer moved a call of the house.

Mr. Bartlett of Griggs moved to adjourn *sine die*.

Mr. Williams moved a call of the house.

Which motion prevailed.

And the roll was called.

All members were present except Messrs. Almen, Bell, Hegge, McBride, Paulson and Scott.

Messrs. Almen, Bell, McBride, Paulson and Scott being excused.

Mr. Hegge returned to the House and all further proceedings under the call were dispensed with.

Ayes and nays were demanded on the motion to adjourn *sine die*.

Mr. Moer moved that when the convention adjourn it be to meet again at 8 o'clock to-night.

Mr. Allen moved the previous question.

Which motion was ruled out of order.

Mr. Moer's motion was lost, and the

Ayes and nays were demanded on the motion of Mr. Bartlett.

The roll being called, there were ayes, 7; nays, 62; viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Allin,	Carothers,	Richardson,
Bartlett of Griggs,	Marrinan,	Robertson,
Best,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Appleton,	Haugen,	Peterson,
Bartlett of Dickey,	Hegge,	O'Brien,
Bean,	Holmes,	Powers,
Bennett,	Hoyt,	Powles,
Blewett,	Johnson,	Purcell,
Brown,	Lauder,	Pollock,
Budge,	Leach,	Ray,
Camp,	Linwell,	Rolfe,
Carland,	Lohnes,	Rowe,
Chaffee,	Lowell,	Sandager,
Clapp,	Mathews,	Selby,
Clark,	Meacham,	Shuman,
Colton,	McHugh,	Slotten,
Douglas,	McKenzie,	Spalding,
Elliott,	Miller,	Stevens,
Fay,	Moer,	Turner,
Flemington,	Noble,	Wellwood,
Gayton,	Nomland,	Whipple,
Glick,	Parsons of Morton,	Williams,
Griggs,	Parsons of Rolette,	Mr. President.
Harris,		

Absent and not voting:

Messrs— Almen, Bell, Gray.	Messrs— McBride, Paulson,	Messrs— Scott, Wallace,
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Messrs. Camp, Colton and Spalding explaining their votes.  
And so the motion to adjourn *sine die* was lost.

Mr. Pollock moved to adjourn until 8 o'clock p. m. this evening.

Which motion was lost.

Ayes and nays were demanded on Mr. Colton's motion to lay Mr. Moer's motion to reconsider the vote by which section one hundred and eighty (180) was adopted on the table.

The roll being called, there were ayes, 31; nays, 33; viz:

Those who voted in the affirmative were:

Messrs— Allin, Bartlett of Griggs, Bennett, Best, Brown, Carothers, Clapp, Clark, Colton, Douglas, Gray,	Messrs— Haugen, Johnson, Lauder, Linwell, Marrinan, McKenzie, Nomland, Peterson, Powers, Powles,	Messrs— Pollock, Richardson, Robertson, Rolfe, Rowe, Slotten, Turner, Wallace, Wellwood, Mr. President.
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Those who voted in the negative were:

Messrs— Appleton, Bartlett of Dickey, Bean, Blewett, Budge, Camp, Carland, Chaffee, Fay, Flemington, Gayton, Glick,	Messrs— Griggs, Harris, Holmes, Hoyt, Leach, Lowell, Mathews, Meacham, McHugh, Moer Noble,	Messrs— O'Brien, Parsons of Morton, Parsons of Rolette, Ray, Sandager, Selby, Shuman, Spalding, Stevens, Whipple, Williams.
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Absent and not voting:

Mr. Almen,	Mr. Bell,	Mr. Lohnes.
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Those being paired were:

Messrs— Elliott, Hegge, McBride,	Messrs— Miller, Paulson,	Messrs— Purcell, Scott.
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Messrs. Moer and Richardson explaining their vote.

And so the motion to lay on the table was lost.

The question then recurring on Mr. Moer's motion to reconsider

Ayes and nays were demanded.

The roll being called there were ayes, 36, nays, 29; viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Appleton,	Glick,	Noble,
Bartlett of Dickey,	Griggs,	Parsons of Morton,
Bean,	Harris,	Parsons of Rolette,
Blewett,	Holmes,	Powles,
Budge,	Hoyt,	Ray,
Camp,	Leach,	Sandager,
Carland,	Lowell,	Selby,
Chaffee,	Mathews,	Stuman,
Clapp,	Meacham,	Spalding,
Fay,	McHugh,	Stevens,
Flemington,	McKenzie,	Whipple,
Gayton,	Moer,	Williams.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Allin,	Haugen,	Richardson,
Bartlett of Griggs,	Johnson,	Robertson,
Bennett,	Lauder,	Rolfe,
Best,	Linwell,	Rowe,
Brown,	Marrianan,	Slotten,
Carothers,	Nomland,	Turner,
Clark,	O'Brien,	Wallace.
Colton,	Peterson,	Wellwood,
Douglas,	Powers,	Mr. President.
Gray,	Pollock,	

Absent and not voting:

Mr. Almen, Mr. Lohnes.

Those being paired were:

Messrs—	Messrs—	Messrs—
Bell,	McBride,	Purcell,
Elliott,	Miller,	Scott.
Hegge,	Paulson,	

And so the vote to reconsider section one hundred and eighty (180) prevailed.

Mr. Appleton moved to amend section one hundred and eighty (180) by adding at the close thereof the following:

*Provided*, That the property of all railroad corporations may be taxed in such manner as the Legislative Assembly may deem for the best interest of the state.

Mr. Wallace moved to amend the amendment by adding thereto the following:

That no railroad property shall be assessed or taxed at a rate higher than one-half that to which private property is subjected.

Mr. Lauder moved as a substitute that the section be amended by adding thereto the following:

*Provided*, However, that the Legislative Assembly may by law accept and provide for a tax based on gross earnings in lieu of all other taxes to be assessed against the road, road-bed, rolling stock, franchise and all other, and only such property as is owned by any railroad corporation and used by it in the actual operation of its road.

Which substitute was withdrawn.

Mr. Camp as a substitute for all amendments moved to amend the section by adding thereto the following:

But the Legislative Assembly may by law provide for the payment of a per centum of gross earnings of railroad companies to be paid in lieu of all state, county, township and school taxes on property exclusively used in and about the prosecution of the business of such companies, but no real estate of such corporations shall be exempted from taxation in the same manner and on the same basis as other real estate is taxed, except road bed, right of way, shops and buildings used exclusively in their business as common carriers, and whenever and so long as such law providing for the payment of a per centum on earnings shall be in force, that part of section 183 of this article relating to the assessment of railroad property shall cease to be in force.

Mr. Stevens offered the following resolution and moved its adoption:

WHEREAS, We have heard with feelings of deepest sorrow of the death of a beloved member of the family of Hon. John Almen, a delegate to this Convention from Walsh county. Be it

*Resolved*, That the members of this Convention, sorrowing with our brother member in his irreparable loss, tender to him and his family our most heartfelt sympathies, trusting that they may enjoy the richest blessings and consolations of our Heavenly Father.

*Resolved*, That the Chief Clerk of this Convention transmit to Hon. John Almen a copy of the action of this Convention.

Which resolution was adopted.

Mr. Wallace moved to adjourn until eight o'clock this evening. Which motion was lost.

Mr. Williams offered the following amendment to the section:

The property of all corporations conducted for pecuniary profit may be taxed as other property, or upon its earnings. And the power to tax individuals or corporations, or their property, shall not be surrendered or suspended by any contract or grant to which the state may be a party.

Mr. Camp moved to amend the substitute offered by himself by adding thereto the following, after the words "common carriers:"

But no real estate situate more than 200 feet from the center of the main line of the railroad of such company shall be exempted from taxation by the payment of such percentage of gross earnings.

Which amendment to the substitute was accepted.

Mr. Flemington moved the previous question, and the question being shall the main question be now put, a vote being taken, prevailed, and

The substitute of Mr. Camp as amended prevailed.

Mr. Spalding moved to amend the amendment just adopted by substituting for that portion relating to taxation of real estate the following:

But no real estate of such corporations shall be exempted from taxation in the same manner and on the same basis as other real estate is taxed, except roadbed, right of way, shops and buildings used exclusively in their business as common carriers.

Mr. Parsons of Morton, moved to adjourn until 8 o'clock this evening.

Which motion was lost.

Ayes and nays demanded on Mr. Spalding's amendment.

The roll being called there were ayes 43, nays 23, viz:

Those who voted in the affirmative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Bartlett of Dickey,	Gray,	Parsons of Rolette,
Beau,	Griggs,	Powles,
Bennett,	Harris,	Pollock,
Blewett.	Holmes,	Ray,
Brown,	Hoyt,	Rolfe,
Budge,	Leach,	Rowe,
Camp,	Lohnes,	Sandager,
Carland,	Lowell,	Selby,
Chaffee,	Mathews,	Shuman,
Clapp,	Meacham,	Spalding.
Clark,	McHugh,	Stevens,
Fay,	McKenzie,	Wellwood,
Flemington.	Moer,	Whipple,
Gayton,	Parsons of Morton,	Williams,
Glick,		

Those who voted in the negative were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Allin,	Johnson,	Powers,
Appleton,	Lauder,	Richardson,
Bartlett of Griggs,	Linwell,	Robertson,
Best,	Marrinan,	Slotten,
Carothers,	Noble,	Turner,
Colton,	Nomland,	Wallace.
Douglas,	O'Brien,	Mr. President.
Haugen,	Peterson,	

Those being paired were:

<b>Messrs—</b>	<b>Messrs—</b>	<b>Messrs—</b>
Alman,	McBride,	Purcell,
Bell,	Miller,	Scott,
Elliott,		

Absent and not voting:

<b>Messrs—</b>	<b>Messrs—</b>
Hegge,	Paulson,

Messrs. Stevens and Williams explaining their votes.

And so the amendment to the substitute prevailed.

Mr. Harris moved to adopt section one hundred and eighty as amended.

Mr. Turner moved to further amend the section by adding thereto the following.:

The Legislature may exempt all buildings and personal property used exclusively in the direct operation and use of farmers in cultivating their lands.

Mr. Bleweit moved the previous question, and the question being shall the main question be put, a vote being taken, prevailed, and

Ayes and nays were demanded on the amendment of Mr. Turner.

The roll being called there were ayes 22; nays, 39; viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Bartlett of Griggs,	Moer,	Robertson,
Bennett,	Noble,	Rolfe,
Carland,	Nomland,	Selby.
Clark,	O'Brien,	Stevens,
Colton,	Parsons of Morton,	Turner,
Douglas,	Peterson,	Wellwood,
Haugen,	Powers,	Williams,
Marrinan,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Allin,	Gayton,	Meacham,
Appleton,	Glick,	McHugh,
Bartlett of Dickey,	Gray,	McKenzie,
Bean,	Griggs,	Parsons of Rolette,
Best,	Harris,	Pollock,
Blewett,	Holmes,	Ray,
Brown,	Hoyt,	Richardson,
Budge,	Johnson,	Rowe,
Camp,	Lauder,	Shuman,
Carothers,	Leach,	Slotten,
Chaffee,	Lohnes,	Spalding.
Clapp,	Lowell,	Whipple,
Fay,	Mathews,	Mr. President.
Flemington,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Almen,	Linwell,	Sandager,
Bell,	Powles,	Wallace,

Those being paired were:

Messrs—	Messrs—	Messrs—
Elliott,	Miller,	Purcell,
Hegge,	Paulson,	Scott,
McBride,		

Messrs. Colton, Douglas and Williams explaining their votes.

And so the amendment was lost.

The motion to adopt section one hundred and eighty (180) prevailed.

Mr. Bly, proprietor of the Sheridan house, invited the delegates to attend a reception.

Mr. Parsons moved to accept the invitation of Mr. Bly.

Which motion prevailed.

Mr. Johnson moved to adjourn until 8 o'clock.

Which motion prevailed.

### EVENING SESSION.

The Convention assembled a 8 o'clock pursuant to adjournment.

Mr. Blewett moved that all speeches be limited to 3 minutes  
Which motion prevailed.

Mr. Miller moved to reconsider the vote by which it was decided  
not to publish the debates of the convention  
Which motion prevailed.

Mr. Miller moved that one thousand [1,000] copies of the de-  
bates of the convention be published  
Which motion prevailed.

The committee on enrolling and engrossing submitted the  
following partial report:

MR. PRESIDENT:

Your committee on engrossing the Constitution, respectfully report as  
follows:

Ask consent to change as follows:

"Magistrate" to "Magistrates" in line 6 of section 69.

Strike out "or" between "ferries" and "toll-bridges" in line 16 of section 69.

Change "and" to "or" in line 32 of section 69.

Change "town" to "towns" in line 34 of section 69.

Insert "be" after "disability" in section 72.

Strike out comma, (,) after "commutations" in section 76.

Make "objection" "objections" in section 79.

Same in section 80.

Strike out comma (,) after "labor" in section 83.

Strike out comma (,) after "railway" in section 84.

Strike out comma (,) after "provided" in section 87.

Comma (,) between "judges" and "who" in section 92.

"Provisions" in section 93, to be changed to "provision."

Strike out "the" before "judge" in section 98.

In section 73, strike out "except" and insert "unless he be."

In section 107, strike out "old" and insert "of age."

Strike out comma (,) after "administrators" in line 4 of section 111.

Insert comma (,) after "discretion" in section 122.

In next to last line of section 142 insert "so" between "be" and "construed."

In proviso to section 144 change "be" to "remain."

In section 149 strike out "that" in line 5.

In section 158 strike out comma (,) between "provided" and "however."

Suggest that third line from bottom in section 159 be changed to read  
"The residue may be sold at any time after expiration of said ten years."

Strike out "and" after "assembly" in line 6 of section 160.

Strike out "the" before "government" in line 11 of section 162.

Change "by" to "under" in line 2 of section 164.

Insert comma (,) in place of "or" in line 3 of section 166.

Mr. Williams moved that the recommendations of the Committee  
be adopted.

Which motion prevailed.

The Committee on Accounts and Expenses submitted the fol-  
lowing report:

MR. PRESIDENT:

Your Committee on Accounts and Expenses, respectively submit the follow-  
ing additional supplementary report. That this is due to Hattie G. David-  
son for services as clerk for committee on school and public lands for August  
24 and 25, two days @\$5.00, \$10.00, which expenses must be assumed by the  
State of North Dakota.

O. G. MEACHAM,  
Chairman.

The Committee on Engrossing and Enrolling submitted the following supplemental report:

MR. PRESIDENT:

Your committee to take charge of the engrossing of the Constitution respectfully report that they have compared the engrossed Constitution with the original articles and find the same correctly engrossed

B. F. SPAULDING.  
Chairman.

## CONSTITUTION OF NORTH DAKOTA—1889.

### PREAMBLE.

We, the people of North Dakota, grateful to Almighty God for the blessings of civil and religious liberty, do ordain and establish this Constitution.

### ARTICLE I.

#### DECLARATION OF RIGHTS.

SECTION 1. All men are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; and pursuing and obtaining safety and happiness.

SEC. 2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have a right to alter or reform the same whenever the public good may require.

SEC. 3. The State of North Dakota is an inseparable part of the American Union and the Constitution of the United States is the supreme law of the land.

SEC. 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference shall be forever guaranteed in this State, and no person shall be rendered incompetent to be a witness or juror on account of his opinion on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

SEC. 5. The privilege of the writ of *habeas corpus* shall not be suspended unless, when in case of rebellion or invasion, the public safety may require.

SEC. 6. All persons shall be bailable by sufficient sureties, unless for capital offences when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel or unusual punishments be inflicted.



Witnesses shall not be unreasonably detained, nor be confined in any room where criminals are actually imprisoned.

SEC. 7. The right of trial by jury shall be secured to all, and remain inviolate; but a jury in civil cases, in courts not of record may consist of less than twelve men, as may be prescribed by law.

SEC. 8. Until otherwise provided by law, no person shall, for a felony, be proceeded against criminally, otherwise than by indictment, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger. In all other cases, offences shall be prosecuted criminally by indictment or information. The Legislative Assembly may change, regulate or abolish the grand jury system.

SEC. 9. Every man may freely write, speak and publish his opinions on all subjects, being responsible for the abuse of that privilege. In all civil and criminal trials for libel the truth may be given in evidence, and shall be a sufficient defense when the matter is published with good motives and for justifiable ends; and the jury shall have the same power of giving a general verdict as in other cases; and in all indictments on informations for libels the jury shall have the right to determine the law and the facts under the direction of the court as in other cases.

SEC. 10. The citizens have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with the powers of government for the redress of grievances, or for other proper purposes, by petition, address or remonstrance.

SEC. 11. All laws of a general nature shall have a uniform operation.

SEC. 12. The military shall be subordinate to the civil power. No standing army shall be maintained by this State in time of peace, and no soldiers shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in the manner prescribed by law.

SEC. 13. In criminal prosecutions in any court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the court to compel the attendance of witnesses in his behalf; and to appear and defend in person and with counsel. No person shall be twice put in jeopardy for the same offense, nor be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law.

SEC. 14. Private property shall not be taken or damaged for public use without just compensation having been first made to, or paid into court for the owner, and no right of way shall be appropriated to the use of any corporation, other than municipal, until full compensation therefor be first made in money or ascer-

tained and paid into court for the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived.

SEC. 15. No person shall be imprisoned for debt unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law; or in cases of tort; or where there is strong presumption of fraud.

SEC. 16. No bill of attainder, *ex post facto* law, or law impairing the obligations of contracts shall ever be passed.

SEC. 17. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this state.

SEC. 18. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

SEC. 19. Treason against the State shall consist only in levying war against it, adhering to its enemies or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open court.

SEC. 20. No special privileges or immunities shall ever be granted which may not be altered, revoked or repealed by the Legislative Assembly; nor shall any citizen or class of citizens be granted privileges or immunities which upon the same terms shall not be granted to all citizens.

SEC. 21. The provisions of this Constitution are mandatory and prohibitory unless, by express words, they are declared to be otherwise.

SEC. 22. All courts shall be open, and every man for any injury done him in his lands, goods, person or reputation shall have remedy by due process of law, and right and justice administered without sale, denial or delay. Suits may be brought against the State in such manner, in such courts, and in such cases, as the Legislative Assembly may, by law, direct.

SEC. 23. Every citizen of this State shall be free to obtain employment wherever possible, and any person, corporation or agent thereof, maliciously interfering or hindering in any way, any citizen from obtaining or enjoying employment already obtained, from any other corporation or person, shall be deemed guilty of a misdemeanor.

SEC. 24. To guard against transgressions of the high powers which we have delegated, we declare that everything in this article

is excepted out of the general powers of government and shall forever remain inviolate.

## ARTICLE II.

### THE LEGISLATIVE DEPARTMENT.

SEC. 25. The Legislative power shall be vested in a Senate and House of Representatives.

SEC. 26. The Senate shall be composed of not less than thirty nor more than fifty members.

SEC. 27. Senators shall be elected for the term of four years, except as hereinafter provided.

SEC. 28. No person shall be a senator who is not a qualified elector in the district in which he may be chosen, and who shall not have attained the age of twenty-five years, and have been a resident of the State or Territory for two years next preceding his election.

SEC. 29. The Legislative Assembly shall fix the number of Senators, and divide the State into as many senatorial districts as there are senators, which districts as nearly as may be, shall be equal to each other in the number of inhabitants entitled to representation. Each district shall be entitled to one Senator and no more, and shall be composed of compact and contiguous territory; and no portion of any county shall be attached to any other county, or part thereof, so as to form a district. The districts as thus ascertained and determined shall continue until changed by law.

SEC. 30. The senatorial districts shall be numbered consecutively from one upwards, according to the number of districts prescribed, and the Senators shall be divided into two classes. Those elected in the districts designated by even numbers shall constitute one class, and those elected in districts designated by odd numbers shall constitute the other class. The Senators of one class, elected in the year 1890, shall hold their office for two years, those of the other class shall hold their office four years, and the determination of the two classes shall be by lot, so that one-half of the Senators, as nearly as practicable, may be elected biennially.

SEC. 31. The Senate, at the beginning and close of each regular session, and at such other times as may be necessary, shall elect one of its members President *pro tempore*, who may take the place of the Lieutenant Governor under rules prescribed by law.

SEC. 32. The House of Representatives shall be composed of not less than sixty, nor more than one hundred and forty members.

SEC. 33. Representatives shall be elected for the term of two years.

SEC. 34. No person shall be a Representative who is not a qualified elector in the district for which he may be chosen, and who shall not have attained the age of twenty-one years, and have been a resident of the State or Territory for two years next preceding his election.

SEC. 35. The members of the House of Representatives shall be apportioned to and elected at large from each senatorial district. The Legislative Assembly shall, in the year 1895, and every tenth year, cause an enumeration to be made of all the inhabitants of this State, and shall at its first regular session after each such enumeration, and also after each federal census, proceed to fix by law the number of Senators, which shall constitute the Senate of North Dakota, and the number of Representatives which shall constitute the House of Representatives of North Dakota, within the limits prescribed by this Constitution, and at the same session shall proceed to reapportion the State into senatorial districts, as prescribed by this Constitution, and to fix the number of members of the House of Representatives, to be elected from the several senatorial districts; *Provided*, That the Legislative Assembly may, at any regular session, redistrict the State into senatorial districts, and apportion the Senators and Representatives respectively.

SEC. 36. The House of Representatives shall elect one of its members as Speaker.

SEC. 27. No judge or clerk of any court, secretary of state, attorney general, register of deeds, sheriff or person holding any office of profit under this State, except in the militia or the office of attorney-at-law, notary public or justice of the peace, and no person holding any office of profit or honor under any foreign government, or under the government of the United States, except postmasters whose annual compensation does not exceed the sum of \$300, shall hold any office in either branch of the Legislative Assembly or become a member thereof.

SEC. 38. No member of the Legislative Assembly, expelled for corruption, and no person convicted of bribery, perjury or other infamous crime shall be eligible to the Legislative Assembly, or to any office in either branch thereof.

SEC. 39. No member of the Legislative Assembly shall, during the term for which he was elected, be appointed or elected to any civil office in this State, which shall have been created, or the emoluments of which shall have been increased, during the term for which he was elected; nor shall any member receive any civil appointment from the Governor, or Governor and Senate, during the term for which he shall have been elected.

SEC. 40. If any person elected to either house of the Legislative Assembly shall offer or promise to give his vote or influence, in favor of, or against any measure or proposition pending or proposed to be introduced into the Legislative Assembly, in con-

sideration, or upon conditions, that any other person elected to the same Legislative Assembly will give, or will promise or assent to give, his vote or influence in favor of or against any other measure or proposition, pending or proposed to be introduced into such Legislative Assembly, the person making such offer or promise shall be deemed guilty of solicitation of bribery. If any member of the Legislative Assembly, shall give his vote or influence for or against any measure or proposition, pending or proposed to be introduced into such Legislative Assembly, or offer, promise or assent so to do upon condition that any other member will give, promise or assent to give his vote or influence in favor of or against any other such measure or proposition pending or proposed to be introduced into such Legislative Assembly, or in consideration that any other member hath given his vote or influence, for or against any other measure or proposition in such Legislative Assembly, he shall be deemed guilty of bribery. And any person, member of the Legislative Assembly or person elected thereto, who shall be guilty of either such offenses, shall be expelled, and shall not, thereafter be eligible to the Legislative Assembly, and, on the conviction thereof in the civil courts, shall be liable to such further penalty as may be prescribed by law.

SEC. 41. The term of service of the members of the Legislative Assembly shall begin on the first Tuesday in January next, after their election.

SEC. 42. The members of the Legislative Assembly shall in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to or returning from the same. For words used in any speech or debate in either house, they shall not be questioned in any other place.

SEC. 43. Any member who has a personal or private interest in any measure or bill proposed or pending before the Legislative Assembly, shall disclose the fact to the house of which he is a member, and shall not vote thereon without the consent of the house.

SEC. 44. The Governor shall issue writs of election to fill such vacancies as may occur in either house of the Legislative Assembly.

SEC. 45. Each member of the Legislative Assembly shall receive as a compensation for his services for each session, five dollars per day, and ten cents for every mile of necessary travel in going to and returning from the place of the meeting of the Legislative Assembly, on the most usual route.

SEC. 46. A majority of the members of each house shall constitute a quorum, but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such a manner, and under such a penalty, as may be prescribed by law.

SEC. 47. Each house shall be the judge of the election returns and qualifications of its own members.

SEC. 48. Each house shall have the power to determine the rules of proceeding, and punish its members or other persons for contempt or disorderly behavior in its presence; to protect its members against violence or offers of bribes or private solicitation, and with the concurrence of two-thirds, to expel a member; and shall have all other powers necessary and usual in the Legislative Assembly of a free state. But no imprisonment by either house shall continue beyond thirty days. Punishment for contempt or disorderly behavior shall not bar a criminal prosecution for the same offense.

SEC. 49. Each house shall keep a journal of its proceedings, and the yeas and nays on any question shall be taken and entered on the journal at the request of one-sixth of those present.

SEC. 50. The sessions of each house and of the Committee of the Whole shall be open unless the business is such as ought to be kept secret.

SEC. 51. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting, except in case of epidemic, pestilence or other great danger.

SEC. 52. The Senate and House of Representatives jointly shall be designated as the Legislative Assembly of the State of North Dakota.

SEC. 53. The Legislative Assembly shall meet at the seat of government at 12 o'clock noon on the first Tuesday after the first Monday in January, in the year next following the election of the members thereof.

SEC. 54. In all elections to be made by the Legislative Assembly, or either house thereof, the members shall vote viva voce, and their votes shall be entered in the journal.

SEC. 55. The sessions of the Legislative Assembly shall be biennial, except as otherwise provided in this Constitution.

SEC. 56. No regular sessions of the Legislative Assembly shall exceed sixty days, except in case of impeachment, but the first session of the Legislative Assembly may continue for a period of one hundred and twenty days.

SEC. 57. Any bill may originate in either house of the Legislative Assembly, and a bill passed by one house may be amended by the other.

SEC. 58. No law shall be passed, except by a bill adopted by both houses, and no bill shall be so altered and amended on its passage through either house as to change its original purpose.

SEC. 59. The enacting clause of every law shall be as follows: Be it enacted by the Legislative Assembly of the State of North Dakota.

SEC. 60. No bill for the appropriation of money, except for the expenses of the government, shall be introduced after the fortieth day of the session, except by unanimous consent of the house in which it is sought to be introduced.

SEC. 61. No bill shall embrace more than one subject, which shall be expressed in its title, but a bill which violates this provision shall be invalidated thereby only as to so much thereof as shall not be so expressed.

SEC. 62. The general appropriation bill shall embrace nothing but appropriations for the expenses of the Executive, Legislative and Judicial Departments of the State, interest on the public debt and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.

SEC. 63. Every bill shall be read three several times, but the first and second readings, and those only, may be upon the same day; and the second reading may be by title of the bill unless a reading at length be demanded. The first and third readings shall be at length. No Legislative day shall be shorter than the natural day.

SEC. 64. No bill shall be revised or amended, nor the provisions thereof extended or incorporated in any other bill by reference to its title only, but so much thereof as is revised, amended or extended or so incorporated, shall be re-enacted and published at length.

SEC. 65. No bill shall become a law except by a vote of the majority of all the members elect in each house, nor unless, on its final passage, the vote be taken by yeas and nays, and the names of those voting be entered on the Journal.

SEC. 66. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the Legislative Assembly; immediately before such signing their title shall be publicly read, and the fact of signing shall be at once entered on the Journal.

SEC. 67. No act of the Legislative Assembly shall take effect until July 1st, after the close of the session unless in case of emergency (which shall be expressed in the preamble or body of the act), the Legislative Assembly shall, by a vote of two-thirds of all the members present in each house, otherwise direct.

SEC. 68. The Legislative Assembly shall pass all laws necessary to carry into effect the provisions of this Constitution.

SEC. 69. The Legislative Assembly shall not pass local or special laws in any of the following enumerated cases, that is to say:

1. For granting divorces.
2. Laying out, opening, altering or working roads or highways, vacating roads, town plats, streets, alleys or public grounds.
3. Locating or changing county seats.
4. Regulating county or township affairs.
5. Regulating the practice of courts of justice.
6. Regulating the jurisdiction and duties of justices of the peace, police magistrates or constables.
7. Changing the rules of evidence in any trial or inquiry.
8. Providing for changes of venue in civil or criminal cases.
9. Declaring any person of age.
10. For limitation of civil actions, or giving effect to informal or invalid deeds.
11. Summoning or impanneling grand or petit juries.
12. Providing for the management of common schools.
13. Regulating the rate of interest on money.
14. The opening or conducting of any election, or designating the place of voting.
15. The sale or mortgage of real estate belonging to minors or others under disability.
16. Chartering or licensing ferries, toll bridges or toll roads.
17. Remitting fines, penalties or forfeitures.
18. Creating, increasing or decreasing fees, percentages or allowances of public officers.
19. Changing the law of descent.
20. Granting to any corporation, association or individual the right to lay down railroad tracks, or any special or exclusive privilege, immunity or franchise whatever.
21. For the punishment of crimes.
22. Changing the names of persons or places.
23. For the assessment or collection of taxes.
24. Affecting estates of deceased persons, minors or others under legal disabilities.
25. Extending the time for the collection of taxes.
26. Refunding money into the State Treasury.
27. Relinquishing or extinguishing in whole or in part the indebtedness, liability or obligation of any corporation or person to this State, or to any municipal corporation therein.
28. Legalizing, except as against the State, the unauthorized or invalid act of any officer.



29. Exempting property from taxation.

30. Restoring to citizenship persons convicted of infamous crimes.

31. Authorizing the creation, extension or impairing of liens.

32. Creating offices, or prescribing the powers or duties of officers in counties, cities, townships, election or school districts, or authorizing the adoption or legitimation of children.

33. Incorporation of cities, towns or villages, or changing or amending the charter of any town, city or village.

34. Providing for the election of members of the Board of Supervisors in townships, incorporated towns or cities.

35. The protection of game or fish.

SEC. 70. In all other cases where a general law can be made applicable, no special law shall be enacted; nor shall the Legislative Assembly indirectly enact such special or local law by the partial repeal of a general law; but laws repealing local or special acts may be passed.

### ARTICLE III.

#### EXECUTIVE DEPARTMENT.

SEC. 71. The executive power shall be vested in a Governor, who shall reside at the seat of government, and shall hold his office for the term of two years and until his successor is elected and duly qualified.

SEC. 72. A Lieutenant Governor shall be elected at the same time and for the same term as the Governor. In case of the death, impeachment, resignation, failure to qualify, absence from the State, removal from office, or the disability of the Governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability be removed, shall devolve upon the Lieutenant Governor.

SEC. 73. No person shall be eligible to the office of Governor or Lieutenant Governor unless he be a citizen of the United States, and a qualified elector of the State, who shall have attained the age of thirty years, and who shall have resided five years next preceding the election within the State or Territory, nor shall he be eligible to any other office during the term for which he shall have been elected.

SEC. 74. The Governor and Lieutenant Governor shall be elected by the qualified electors of the State at the time and places of choosen members of the Legislative Assembly. The persons having the highest number of votes for Governor and Lieutenant Governor respectively shall be declared elected, but if two or more shall have an equal and highest number of votes for Governor or Lieutenant Governor, the two houses of the Legisla-

tive Assembly at its next regular session shall forthwith, by joint ballot, choose one of such persons for said office. The returns of the election for Governor and Lieutenant Governor shall be made in such manner as shall be prescribed by law.

SEC. 75. The Governor shall be Commander-in-Chief of the military and naval forces of the State, except when they shall be called into the service of the United States, and may call out the same to execute the laws, suppress insurrection and repel invasion. He shall have power to convene the Legislative Assembly on extraordinary occasions. He shall at the commencement of each session communicate to the Legislative Assembly by message, information of the condition of the State, and recommend such measures as he shall deem expedient. He shall transact all necessary business with the officers of the government, civil and military. He shall expedite all such measures as may be resolved upon by the Legislative Assembly, and shall take care that the laws be faithfully executed.

SEC. 76. The Governor shall have power to remit fines and forfeitures, to grant reprieves, commutations and pardons after conviction, for all offences except treason and cases of impeachment; but the Legislative Assembly may by law regulate the manner in which the remission of fines, pardons, commutations and reprieves may be applied for. Upon conviction for treason he shall have power to suspend the execution of sentence until the case shall be reported to the Legislative Assembly at its next regular session, when the Legislative Assembly shall either pardon or commute the sentence, direct the execution of the sentence or grant further reprieve. He shall communicate to the Legislative Assembly at each regular session each case of remission of fine, reprieve, commutation or pardon granted by him, stating the name of the convict, the crime for which he is convicted, the sentence and its date, and the date of the remission, commutation, pardon or reprieve, with his reasons for granting the same.

SEC. 77. The Lieutenant Governor shall be President of the Senate, but shall have no vote unless they be equally divided. If, during a vacancy in the office of Governor, the Lieutenant Governor shall be impeached, displaced, resign or die, or from mental or physical disease, or otherwise become incapable of performing the duties of his office, the Secretary of State shall act as Governor until the vacancy shall be filled or the disability removed.

SEC. 78. When any office shall from any cause become vacant, and no mode is provided by the Constitution or law for filling such vacancy, the Governor shall have power to fill such vacancy by appointment.

SEC. 79. Every bill which shall have passed the Legislative Assembly shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign, but if not, he shall return it

with his objections to the house in which it originated, which shall enter the objections at large upon the Journal and proceed to reconsider it. If, after such reconsideration, two-thirds of the members elect shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if it be approved by two-thirds of the members elect, it shall become a law; but in all such cases the vote of both houses shall be determined by the yeas and nays, and the names of the members voting for and against the bill shall be entered upon the Journal of each house respectively. If any bill shall not be returned by the Governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, unless the Legislative Assembly by its adjournment, prevent its return, in which case it shall be a law, unless he shall file the same with his objections in the office of the Secretary of State, within fifteen days after such adjournment.

SEC. 80. The Governor shall have power to disapprove of any item or items, or part or parts of any bill making appropriations of money or property embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items, and part or parts disapproved shall be void, unless enacted in the following manner: If the Legislative Assembly be in session he shall transmit to the house in which the bill originated a copy of the item or items, or part or parts thereof disapproved, together with his objections thereto, and the items or parts objected to shall be separately reconsidered, and each item or part shall then take the same course as is prescribed for the passage of bills over the executive veto.

SEC. 81. Any Governor of this State who asks, receives or agrees to receive any bribe upon any understanding that his official opinion, judgment or action shall be influenced thereby, or who gives or offers, or promises his official influence in consideration that any member of the Legislative Assembly shall give his official vote or influence on any particular side of any question or matter upon which he may be required to act in his official capacity, or who menaces any member by the threatened use of his veto power, or who offers or promises any member that he, the said Governor will appoint any particular person or persons to any office created or thereafter to be created, in consideration that any member shall give his official vote or influence on any matter pending or thereafter to be introduced into either house of said Legislative Assembly, or who threatens any member that he, the said Governor, will remove any person or persons from office or position with intent in any manner to influence the action of said member, shall be punished in the manner now or that may hereafter be provided by law, and upon conviction thereof shall forfeit all right to hold or exercise any office of trust or honor in this State.

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SEC. 82. There shall be chosen by the qualified electors of the State at the times and places of choosing members of the Legislative Assembly, a Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of Insurance, three Commissioners of Railroads, one Attorney General and one Commissioner of Agriculture and Labor; who shall have attained the age of twenty-five years, shall be citizens of the United States, and shall have the qualifications of State electors. They shall severally hold their offices at the seat of government, for the term of two years and until their successors are elected and duly qualified, but no person shall be eligible to the office of Treasurer for more than two consecutive terms.

SEC. 83. The powers and duties of the Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of Insurance, Commissioners of Railroads, Attorney General and Commissioner of Agriculture and Labor, shall be as prescribed by law.

SEC. 84. Until otherwise provided by law, the Governor shall receive an annual salary of three thousand dollars; the Lieutenant Governor shall receive an annual salary of one thousand dollars; the Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of Insurance, Commissioners of Railroads and Attorney General shall each receive an annual salary of two thousand dollars; the salary of the Commissioner of Agriculture and Labor shall be as prescribed by law, but the salaries of any of the said officers shall not be increased or diminished during the period for which they shall have been elected, and all fees and profits arising from any of the said offices shall be covered into the State treasury.

#### ARTICLE IV.

##### JUDICIAL DEPARTMENT.

SEC. 85. The judicial power of the State of North Dakota shall be vested in a supreme court, district courts, county courts, justices of the peace, and in such other courts as may be created by law for cities, incorporated towns and villages.

SEC. 86. The supreme court, except as otherwise provided in this Constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State and shall have a general superintending control over all inferior courts under such regulations and limitations as may be prescribed by law.

SEC. 87. It shall have power to issue writs of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari*, injunction, and such other original and remedial writs as may be necessary to the proper exercise of its jurisdiction, and shall have authority to hear and determine the same; *Provided*, however, that no jury trials shall

be allowed in said supreme court, but in proper cases questions of fact may be sent by said court to a district court for trial.

SEC. 88. Until otherwise provided by law three terms of the supreme court shall be held each year, one at the seat of government, one at Fargo, in the county of Cass, and one at Grand Forks, in the county of Grand Forks.

SEC. 89. The supreme court shall consist of three judges, a majority of whom shall be necessary to form a quorum or pronounce a decision, but one or more of said judges may adjourn the court from day to day or to a day certain.

SEC. 90. The judges of the supreme court shall be elected by the qualified electors of the State at large, and except as may be otherwise provided herein for the first election for judges under this Constitution, said judges shall be elected at general elections.

SEC. 91. The term of office of the judges of the supreme court, except as in this article otherwise provided, shall be six years, and they shall hold their offices until their successors are duly qualified.

SEC. 92. The judges of the supreme court shall, immediately after the first election under this Constitution, be classified by lot so that one shall hold his office for the term of three years, one for the term of five years and one for the term of seven years from the first Monday in December, A. D. 1889. The lots shall be drawn by the judges who shall for that purpose assemble at the seat of government, and they shall cause the result thereof to be certified to the Secretary of the Territory and filed in his office unless the Secretary of State of North Dakota shall have entered upon the duties of his office, in which event said certification shall be filed therein. The judge having the shortest term to serve, not holding his office by election or appointment to fill a vacancy, shall be Chief Justice and shall preside at all terms of the supreme court and in case of his absence the judge having in like manner the next shortest term to serve shall preside in his stead.

SEC. 93. There shall be a clerk and also a reporter of the supreme court, who shall be appointed by the judges thereof, and who shall hold their offices during the pleasure of said judges, and whose duties and emoluments shall be prescribed by law and by rules of the supreme court not inconsistent with law. The Legislative Assembly shall make provision for the publication and distribution of the decisions of the supreme court and for the sale of the published volumes thereof.

SEC. 94. No person shall be eligible to the office of judge of the supreme court unless he be learned in the law, be at least thirty years of age and a citizen of the United States, nor unless he shall have resided in this State or Territory of Dakota three years next preceding his election.

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SEC. 95. Whenever the population of the State of North Dakota shall equal six hundred thousand the Legislative Assembly shall have the power to increase the number of the judges of the supreme court to five, in which event a majority of said court, as thus increased, shall constitute a quorum.

SEC. 96. No duties shall be imposed by law upon the supreme court or any of the judges thereof, except such as are judicial, nor shall any of the judges thereof exercise any power of appointment except as herein provided.

SEC. 97. The style of all process shall be "The State of North Dakota." All prosecutions shall be carried on in the name and by the authority of the State of North Dakota, and conclude "against the peace and dignity of the State of North Dakota."

SEC. 98. Any vacancy happening by death, resignation or otherwise in the office of judge of the supreme court shall be filled by appointment, by the Governor, which appointment shall continue until the first general election thereafter, when said vacancy shall be filled by election.

SEC. 99. The judges of the supreme and district courts shall receive such compensation for their services as may be prescribed by law, which compensation shall not be increased or diminished during the term for which a judge shall have been elected.

SEC. 100. In case a judge of the supreme court shall be in any way interested in a cause brought before said court, the remaining judges of said court shall call one of the district judges to sit with them on the hearing of said cause.

SEC. 101. When a judgment or decree is reversed or confirmed by the supreme court every point fairly arising upon the record of the case shall be considered and decided, and the reasons therefor shall be concisely stated in writing, signed by the judges concurring, filed in the office of the clerk of the supreme court and preserved with a record of the case. Any judge dissenting therefrom may give the reasons of his dissent in writing over his signature.

SEC. 102. It shall be the duty of the court to prepare a syllabus of the points adjudicated in each case, which shall be concurred in by a majority of the judges thereof, and it shall be prefixed to the published reports of the case.

#### DISTRICT COURTS.

SEC. 103. The district court shall have original jurisdiction, except as otherwise provided in this Constitution, of all causes both at law and equity, and such appellate jurisdiction as may be conferred by law. They and the judges thereof shall also have jurisdiction and power to issue writs of *habeas corpus*, *quo warranto*, *certiorari*, injunction and other original and remedial writs, with authority to hear and determine the same.

**SEC. 104.** The State shall be divided into Six Judicial Districts, in each of which there shall be elected at general elections, by the electors thereof, one judge of the district court therein, whose term of office shall be four years from the first Monday in January succeeding his election and until his successor is duly qualified. This section shall not be construed as governing the first election of district judges under this Constitution.

**SEC. 105.** Until otherwise provided by law said districts shall be constituted as follows:

District No. One shall consist of the counties of Pembina, Cavalier, Walsh, Nelson and Grand Forks.

District No. Two shall consist of the counties of Ramsey, Towner, Benson, Pierce, Rolette, Bottineau, McHenry, Church, Renville, Ward, Stevens, Mountraille, Garfield, Flannery and Buford.

District No. Three shall consist of the counties of Cass, Steele and Traill.

District No. Four shall consist of the counties of Richland, Ransom, Sargent, Dickey and McIntosh.

District No. Five shall consist of the counties of Logan, La-Moure, Stutsman, Barnes, Wells, Foster, Eddy and Griggs.

District No. Six shall consist of the counties of Burleigh, Emmons, Kidder, Sheridan, McLean, Morton, Oliver, Mercer, Williams, Stark, Hettinger, Bowman, Billings, McKenzie, Dunn, Wallace and Allred, and that portion of the Sioux Indian Reservation lying north of the Seventh Standard parallel.

**SEC. 106.** The Legislative Assembly may whenever two-thirds of the members of each house shall concur therein, but not oftener than once in four years, increase the number of said judicial districts and the judges thereof; such districts shall be formed from compact territory and bounded by county lines, but such increase or change in the boundaries of the districts shall not work the removal of any judge from his office during the term for which he may have been elected or appointed.

**SEC. 107.** No person shall be eligible to the office of district judge, unless he be learned in the law, be at least twenty-five years of age, and a citizen of the United States, nor unless he shall have resided within the State or Territory of Dakota at least two years next preceding his election, nor unless he shall at the time of his election be an elector within the Judicial District for which he is elected.

**SEC. 108.** There shall be a Clerk of the District Court in each organized county in which a court is holden who shall be elected by the qualified electors of the county, and shall hold his office for the same term as other county officers. He shall receive such compensation for his services as may be prescribed by law.

**SEC. 109.** Writs of error and appeals may be allowed from the decisions of the district courts to the Supreme Court under such regulations as may be prescribed by law.

## COUNTY COURTS.

SEC. 110. There shall be established in each county a county court, which shall be a court of record open at all times and holden by one judge, elected by the electors of the county, and whose term of office shall be two years.

SEC. 111. The County Court shall have exclusive original jurisdiction in probate and testamentary matters, the appointment of administrators and guardians, the settlement of the accounts of executors, administrators and guardians, the sale of lands by executors, administrators, and guardians, and such other probate jurisdiction as may be conferred by law; *Provided*, That whenever the voters of any county having a population of two thousand or over shall decide by a majority vote that they desire the jurisdiction of said court increased above that limited by this constitution, then said County Courts shall have concurrent jurisdiction with the District Courts in all civil actions where the amount in controversy does not exceed one thousand dollars, and in all criminal actions below the grade of felony, and in case it is decided by the voters of any county to so increase the jurisdiction of said county court, the jurisdiction in cases of misdemeanors arising under State laws which may have been conferred upon police magistrates, shall cease. The qualifications of the judge of the County Court in counties where the jurisdiction of said court shall have been increased shall be the same as those of the district judge, except he shall be a resident of the county at the time of his election, and said county judge shall receive such salary for his services as may be provided by law. In case the voters of any county decide to increase the jurisdiction of said county courts, then such jurisdiction as thus increased shall remain until otherwise provided by law.

## JUSTICES OF THE PEACE.

SEC. 112. The Legislative Assembly shall provide by law for the election of justices of the peace in each organized county within the state. But the number of said justices to be elected in each organized county shall be limited by law to such a number as shall be necessary for the proper administration of justice. The justices of the peace herein provided for shall have concurrent jurisdiction with the district court in all civil actions when the amount in controversy, exclusive of costs, does not exceed two hundred dollars, and in counties where no county court with criminal jurisdiction exists they shall have such jurisdiction to hear and determine cases of misdemeanor as may be provided by law, but in no case shall said justices of the peace have jurisdiction when the boundaries of or title to real estate shall come in question. The Legislative Assembly shall have power to abolish the office of justice of the peace and confer that jurisdiction upon judges of county courts, or elsewhere.



## POLICE MAGISTRATES.

SEC. 113. The Legislative Assembly shall provide by law for the election of police magistrates in cities, incorporated towns, and villages, who in addition to their jurisdiction of all cases arising under the ordinances of said cities, towns and villages, shall be ex-officio justices of the peace of the county in which said cities, towns and villages may be located. And the Legislative Assembly may confer upon said police magistrates the jurisdiction to hear, try and determine all cases of misdemeanors, and the prosecutions therein shall be by information.

SEC. 114. Appeals shall lie from the county court, final decisions of justices of the peace, and police magistrates in such cases and pursuant to such regulations as may be prescribed by law.

## MISCELLANEOUS.

SEC. 115. The time of holding courts in the several counties of a district shall be as prescribed by law, but at least two terms of the district court shall be held annually in each organized county, and the Legislative Assembly shall make provision for attaching unorganized counties or territories to organized counties for judicial purposes.

SEC. 116. Judges of the district courts may hold court in other districts than their own under such regulations as shall be prescribed by law.

SEC. 117. No judge of the supreme or district court shall act as attorney or counsellor at law.

SEC. 118. Until the Legislative Assembly shall provide by law for fixing the terms of courts the judges of the supreme and district courts shall fix the terms thereof.

SEC. 119. No judge of the supreme or district court shall be elected or appointed to any other than judicial offices or be eligible thereto during the term for which he was elected or appointed such judge. All votes or appointments for either of them for any elective or appointive office except that of judge of the supreme court or district court, given by the Legislative Assembly or the people, shall be void.

SEC. 120. Tribunals of conciliation may be established with such powers and duties as shall be prescribed by law, or the powers and duties of such may be conferred upon other courts of justice; but such tribunals or other courts when sitting as such, shall have no power to render judgment to be obligatory on the parties, unless they voluntarily submit their matters of difference and agree to abide the judgment of such tribunals or courts.

## ARTICLE V.

## ELECTIVE FRANCHISE.

SEC. 121. Every male person of the age of twenty-one years or upwards belonging to either of the following classes, who shall have resided in the state one year, in the county six months and in the precinct ninety days next preceding any election, shall be deemed a qualified elector at such election:

First: Citizens of the United States.

Second: Persons of foreign birth who shall have declared their intention to become citizens, one year and not more than six years, prior to such election, conformably to the naturalization laws of the United States.

Third: Civilized persons of Indian descent who shall have severed their tribal relations two years next preceding such election.

SEC. 122. The Legislative Assembly shall be empowered to make further extensions of suffrage hereafter, at its discretion to all citizens of mature age and sound mind, not convicted of crime, without regard to sex; but no law extending or restricting the right of suffrage shall be enforced until adopted by a majority of the electors of the state voting at a general election.

SEC. 123. Electors shall in all cases except treason, felony, breach of the peace or illegal voting, be privileged from arrest on the days of election during their attendance at, going to and returning from such election, and no elector shall be obliged to perform military duty on the day of election, except in time of war or public danger.

SEC. 124. The general elections of the state shall be biennial, and shall be held on the first Tuesday after the first Monday in November; *Provided*, That the first general election under this Constitution shall be held on the first Tuesday after the first Monday in November, A. D. 1890.

SEC. 125. No elector shall be deemed to have lost his residence in this state by reason of his absence on business of the United States or of this state, or in the military or naval service of the United States.

SEC. 126. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this state in consequence of his being stationed therein.

SEC. 127. No person who is under guardianship, *non compos mentis* or insane, shall be qualified to vote at any election, nor shall any person convicted of treason or felony, unless restored to civil rights.

SEC. 128. Any woman having the qualifications enumerated in section 121 of this article as to age, residence and citizenship, and

including those now qualified by the laws of the territory, may vote for all school officers, and upon all questions pertaining solely to school matters, and be eligible to any school office.

SEC. 129. All elections by the people shall be by secret ballot, subject to such regulations as shall be provided by law.

## ARTICLE VI.

### MUNICIPAL CORPORATIONS.

SEC. 130. The Legislative Assembly shall provide by general law for the organization of municipal corporations, restricting their powers as to levying taxes and assessments, borrowing money and contracting debts, and money raised by taxation, loan or assessment for any purpose shall not be diverted to any other purpose except by authority of law.

## ARTICLE VII.

### CORPORATIONS OTHER THAN MUNICIPAL.

SEC. 131. No charter of incorporation shall be granted, changed or amended by special law, except in the case of such municipal, charitable, educational, penal or reformatory corporations as may be under the control of the state; but the Legislative Assembly shall provide by general laws for the organization of all corporations hereafter to be created, and any such law, so passed, shall be subject to future repeal or alteration.

SEC. 132. All existing charters or grants of special or exclusive privileges, under which a bona fide organization shall not have taken place and business been commenced in good faith at the time this Constitution takes effect, shall thereafter have no validity.

SEC. 133. The Legislative Assembly shall not remit the forfeiture of the charter to any corporation now existing, nor alter or amend the same, nor pass any other general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this constitution.

SEC. 134. The exercise of the right of eminent domain shall never be abridged, or so construed as to prevent the Legislative Assembly from taking the property and franchises of incorporated companies and subjecting them to public use, the same as the property of individuals; and the exercise of the police power of this State shall never be abridged, or so construed as to permit corporations to conduct their business in such a manner as to infringe the equal rights of individuals or the general well-being of the State.

SEC. 135. In all elections for directors or managers of a cor-

poration, each member or share-holder may cast the whole number of his votes for one candidate, or distribute them upon two or more candidates, as he may prefer.

SEC. 136. No foreign corporation shall do business in this state without having one or more places of business and an authorized agent or agents in the same, upon whom process may be served.

SEC. 137. No corporation shall engage in any business other than that expressly authorized in its charter.

SEC. 138. No corporation shall issue stock or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock first obtained at a meeting to be held after sixty days' notice given in pursuance of law.

SEC. 139. No law shall be passed by the Legislative Assembly granting the right to construct and operate a street railroad, telegraph, telephone or electric light plant within any city, town or incorporated village, without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied for such purposes.

SEC. 140. Every railroad corporation organized and doing business in this state, under the laws or authority thereof, shall have and maintain a public office or place in the state for the transaction of its business, where transfers of its stock shall be made and in which shall be kept for public inspection, books in which shall be recorded the amount of capital stock subscribed, and by whom, the names of the owners of its stock and the amount owned by them respectively; the amount of stock paid in and by whom, and the transfers of said stock; the amounts of its assets and liabilities and the names and place of residence of its officers. The directors of every railroad corporation shall annually make a report, under oath, to the auditor of public accounts, or some officer or officers to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law, and the Legislative Assembly shall pass laws enforcing by suitable penalties the provisions of this section. Providing the provisions of this section shall not be so construed as to apply to foreign corporations.

SEC. 141. No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given at least sixty days to all stockholders, in such manner as may be provided by law. Any attempt to evade the provisions of this section, by any railroad corporation, by lease or otherwise, shall work a forfeiture of its charter.

SEC. 142. Railways heretofore constructed or that may hereafter be constructed in this state are hereby declared public highways, and all railroad, sleeping car, telegraph, telephone and transportation companies of passengers, intelligence and freight, are declared to be common carriers and subject to legislative control; and the Legislative Assembly shall have power to enact laws regulating and controlling the rates of charges for the transportation of passengers, intelligence and freight, as such common carriers from one point to another in this State; *Provided*, That appeal may be had to courts of this State from the rate so fixed; but the rates fixed by the Legislative Assembly or Board of Railroad Commissioners shall remain in full force pending the decision of the courts.

SEC. 143. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points within this state, and to connect at the state line with the railroads of other states. Every railroad company shall have the right with its road to intersect, connect with or cross any other; and shall receive and transport each other's passengers, tonnage and cars, loaded or empty, without delay or discrimination.

SEC. 144. The term "corporation," as used in this article, shall not be understood as embracing municipalities or political subdivisions of the State unless otherwise expressly stated, but it shall be held and construed to include all associations and joint stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships.

SEC. 145. If a general banking law be enacted, it shall provide for the registry and countersigning by an officer of the State, of all notes or bills designed for circulation, and that ample security to the full amount thereof shall be deposited with the State Treasurer for the redemption of such notes or bills.

SEC. 146. Any combination between individuals, corporations, associations, or either having for its object or effect the controlling of the price of any product of the soil or any article of manufacture or commerce, or the cost of exchange or transportation, is prohibited and hereby declared unlawful and against public policy; and any and all franchises heretofore granted or extended, or that may hereafter be granted or extended in this state, whenever the owner or owners thereof violate this article shall be deemed annulled and become void.

## ARTICLE VIII.

### EDUCATION.

SEC. 147. A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people being necessary in order to insure the continuance of

that government and the prosperity and happiness of the people, the Legislative Assembly shall make provision for the establishment and maintenance of a system of public schools which shall be open to all children of the state of North Dakota and free from sectarian control. This legislative requirement shall be irrevocable without the consent of the United States and the people of North Dakota.

SEC. 148. The Legislative Assembly shall provide at their first session, after the adoption of this Constitution, for a uniform system of free public schools throughout the state; beginning with the primary and extending through all grades up to and including the normal and collegiate course.

SEC. 149. In all schools instruction shall be given as far as practicable in those branches of knowledge that tend to impress upon the mind the vital importance of truthfulness, temperance, purity, public spirit, and respect for honest labor of every kind.

SEC. 150. A Superintendent of Schools for each county shall be elected every two years, whose qualifications, duties, powers and compensation shall be fixed by law.

SEC. 152. The Legislative Assembly shall take such other steps as may be necessary to prevent illiteracy, secure a reasonable degree of uniformity in course of study, and to promote industrial, scientific and agricultural improvement.

SEC. 152. All colleges, universities and other educational institutions, for the support of which lands have been granted to this state, or which are supported by a public tax, shall remain under the absolute and exclusive control of the State. No money raised for the support of the public schools of the State shall be appropriated to or used for the support of any sectarian school.

## ARTICLE IX.

### SCHOOL AND PUBLIC LANDS.

SEC. 153. All proceeds of the public lands that have heretofore been, or may hereafter be granted by the United States for the support of the common schools in this state; all such per centum as may be granted by the United States on the sale of public lands; the proceeds or property that shall fall to the state by escheat; the proceeds of all gifts and donations to the state for common schools, or not otherwise appropriated by the terms of the gift, and all other property otherwise acquired for common schools, shall be and remain a perpetual fund for the maintenance of the common schools of the state. It shall be deemed a trust fund, the principal of which shall forever remain inviolate and may be increased but never diminished. The state shall make good all losses thereof.

SEC. 154. The interest and income of this fund together with the net proceeds of all fines for violation of state laws, and all

other sums which may be added thereto by law, shall be faithfully used and applied each year for the benefit of the common schools of the state, and shall be for this purpose apportioned among and between all the several common school corporations of the state in proportion to the number of children in each of school age, as may be fixed by law; and no part of the fund shall ever be diverted, even temporarily, from this purpose or used for any other purpose whatever than the maintenance of common schools for the equal benefit of all the people of the state; *Provided, however,* That if any portion of the interest or income aforesaid be not expended during any year, said portion shall be added to and become a part of the school fund.

SEC. 155. After one year from the assembling of the first Legislative Assembly, the lands granted to the state from the United States for the support of the common schools, may be sold upon the following conditions and no other: No more than one-fourth of all such lands shall be sold within the first five years after the same become saleable by virtue of this section. No more than one-half of the remainder within ten years after the same become saleable as aforesaid. The residue may be sold at any time after the expiration of said ten years. The Legislative Assembly shall provide for the sale of all school lands subject to the provisions of this article. The coal lands of the State shall never be sold, but the Legislature Assembly may, by general laws, provide for leasing the same. The words "coal lands" shall include lands bearing lignite coal.

SEC. 156. The Superintendent of Public Instruction, Governor, Attorney-General, Secretary of State and State Auditor, shall constitute a Board of Commissioners, which shall be denominated the "Board of University and School Lands," and, subject to the provisions of this article and any law that may be passed by the Legislative Assembly, said board shall have control of the appraisement, sale, rental and disposal of all school and university lands, and shall direct the investment of the funds arising therefrom in the hands of the State Treasurer, under the limitations in section 160 of this article.

SEC. 157. The county superintendent of common schools, the chairman of the county board, and the county auditor shall constitute boards of appraisal and under the authority of the State Board of University and School Lands shall appraise all school lands within their respective counties which they may from time to time recommend for sale at their actual value under the prescribed terms and shall first select and designate for sale the most valuable lands.

SEC. 158. No land shall be sold for less than the appraised value and in no case for less than ten dollars per acre. The purchaser shall pay one-fifth of the price in cash, and the remaining four-fifths as follows: One-fifth in five years, one-fifth in ten

years, one-fifth in fifteen years and one-fifth in twenty years, with interest at the rate of not less than six per centum payable annually in advance. All sales shall be held at the county seat of the county in which the land to be sold is situate and shall be at public auction and to the highest bidder, after sixty days advertisement of the same in a newspaper of general circulation in the vicinity of the lands to be sold, and one at the seat of government. Such lands as shall not have been specially subdivided shall be offered in tracts of one quarter section, and those so subdivided in the smallest subdivisions. All lands designated for sale and not sold within two years after appraisal shall be reappraised before they are sold. No grant or patent for any such lands shall issue until payment is made for the same; *Provided*, That the lands contracted to be sold by the state, shall be subject to taxation from the date of such contract. In case the taxes assessed against any of said lands for any year remain unpaid until the first Monday in October of the following year, then and thereupon the contract of sale for such lands shall become null and void.

SEC. 159. All land, money or other property donated, granted or received from the United States or any other source for a University, School of Mines, Reform School, Agricultural College, Deaf and Dumb Asylum, Normal School or other educational or charitable institution or purpose, and the proceeds of all such lands and other property so received from any source, shall be and remain perpetual funds, the interest and income of which together with the rents of all such land as may remain unsold shall be inviolably appropriated and applied to the specific objects of the original grants or gifts. The principal of every such fund may be increased but shall never be diminished, and the interest and income only shall be used. Every such fund shall be deemed a trust fund held by the state, and the state shall make good all losses thereof.

SEC. 160. All lands mentioned in the preceding section shall be appraised and sold in the same manner and under the same limitations and subject to all the conditions as to price and sale as provided above for the appraisal and sale of lands for the benefit of common schools; but a distinct and separate account shall be kept by the proper officers of each of said funds; *Provided*, That the limitations as to the time in which school land may be sold shall apply only to lands granted for the support of common schools.

SEC. 161. The Legislative Assembly shall have authority to provide by law for the leasing of lands granted to the state for educational and charitable purposes; but no such law shall authorize the leasing of said lands for a longer period than five years. Said land shall only be leased for pasturage and meadow purposes and at a public auction after notice as heretofore provided in case of sale. *Provided* that all of said school lands now under cultivation may be leased at the discretion and under the control of the Board



of University and School Lands, for other than pasturage and meadow purposes until sold. All rents shall be paid in advance.

SEC. 162. The moneys of the permanent school fund and other educational funds shall be invested only in bonds of school corporations within the state, bonds of the United States, bonds of the state of North Dakota or in first mortgages on farm lands in the state, not exceeding in amount one-third of the actual value of any subdivision on which the same may be loaned, such value to be determined by the board of appraisers of school lands.

SEC. 163. No law shall ever be passed by the Legislative Assembly granting to any person, corporation or association any privileges by reason of the occupation, cultivation or improvement of any public lands by said person, corporation or association subsequent to the survey thereof by the general government. No claim for the occupation, cultivation or improvement of any public lands shall ever be recognized, nor shall such occupation, cultivation or improvement of any public lands ever be used to diminish either directly or indirectly the purchase price of said lands.

SEC. 164. The Legislative Assembly shall have authority to provide by law for the sale or disposal of all public lands that have been heretofore, or may hereafter be granted by the United States to the state for purposes other than set forth and named in sections 153 and 159 of this article. And the Legislative Assembly in providing for the appraisalment, sale, rental and disposal of the same shall not be subject to the provisions and limitations of this article.

SEC. 165. The Legislative Assembly shall pass suitable laws for the safekeeping, transfer and disbursement of the state school funds; and shall require all officers charged with the same or the safe keeping thereof to give ample bonds for all moneys and funds received by them, and if any of said officers shall convert to his own use in any manner or form, or shall loan with or without interest or shall deposit in his own name, or otherwise than in the name of the state of North Dakota or shall deposit in any banks or with any person or persons, or exchange for other funds or property any portion of the school funds aforesaid or purposely allow any portion of the same to remain in his own hands uninvested except in the manner prescribed by law, every such act shall constitute an embezzlement of so much of the aforesaid school funds as shall be thus taken or loaned, or deposited, or exchanged, or withheld and shall be a felony; and any failure to pay over, produce or account for, the state school funds or any part of the same entrusted to any such officer, as by law required or demanded, shall be held and be taken to be prima facie evidence of such embezzlement.

## ARTICLE X.

### COUNTY AND TOWNSHIP ORGANIZATION.

SEC. 166. The several counties in the Territory of Dakota lying

north of the Seventh Standard Parallel, as they now exist, are hereby declared to be counties of the State of North Dakota.

SEC. 167. The Legislative Assembly shall provide by general law for organizing new counties, locating the county seats thereof temporarily, and changing county lines; but no new county shall be organized nor shall any organized county be so reduced as to include an area of less than twenty-four congressional townships, and containing a population of less than one thousand *bona fide* inhabitants. And in the organization of new counties and in changing the lines of organized counties and boundaries of congressional townships the natural boundaries shall be observed as nearly as may be.

SEC. 168. All changes in the boundaries of organized counties before taking effect shall be submitted to the electors of the county or counties, to be effected thereby at a general election and be adopted by a majority of all the legal votes cast in each county at such election; and in case any portion of an organized county is stricken off and added to another, the county to which such portion is added shall assume and be holden for an equitable porportion of the indebtedness of the county so reduced.

SEC. 169. The Legislative Assembly shall provide by general law for changing county seats in organized counties, but it shall have no power to remove the county seat of any organized county.

SEC. 170. The Legislative Assembly shall provide by general law for township organization under which any county may organize whenever a majority of the legal voters of such county, voting at a general election shall so determine, and whenever any county shall adopt township organization, so much of this Constitution as provides for the management of the fiscal concerns of said county by the board of county commissioners may be dispensed with by a majority vote of the people voting at any general election; and the affairs of said county may be transacted by the chairmen of the several township boards of said county, and such others as may be provided by law for incorporated cities, towns or villages within such county.

SEC. 171. In any county that shall have adopted a system of government by the chairmen of the several township boards, the question of continuing the same may be submitted to the electors of such county at a general election in such a manner as may be provided by law, and if a majority of all the votes cast upon such question shall be against said system of government, then such system shall cease in said county, and the affairs of said county shall then be transacted by a board of county commissioners as is now provided by the laws of the Territory of Dakota.

SEC. 172. Until the system of county government by the chairmen of the several township boards is adopted by any county the fiscal affairs of said county shall be transacted by a board of

county commissioners; said board shall consist of not less than three and not more than five members whose terms of office shall be prescribed by law. Said board shall hold sessions for the transaction of county business as shall be provided by law.

SEC. 173. At the first general election held after the adoption of this Constitution, and every two years thereafter, there shall be elected in each organized county in the State, a county judge, clerk of court, register of deeds, county auditor, treasurer, sheriff and states attorney, who shall be electors of the county in which they are elected and who shall hold their office until their successors are elected and qualified. The Legislative Assembly shall provide by law for such other county, township and district officers as may be deemed necessary, and shall prescribe the duties and compensation of all county, township and district officers. The sheriff and treasurer of any county shall not hold their respective offices for more than four years in succession.

## ARTICLE XI.

### REVENUE AND TAXATION.

SEC. 174. The Legislative Assembly shall provide for raising revenue sufficient to defray the expenses of the state for each year, not to exceed in any one year four (4) mills on the dollar of the assessed valuation of all taxable property in the state, to be ascertained by the last assessment made for state and county purposes, and also a sufficient sum to pay the interest on the state debt.

SEC. 175. No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied.

SEC. 176. Laws shall be passed taxing by uniform rule all property according to its true value in money, but the property of the United States and the state, county and municipal corporations, both real and personal, shall be exempt from taxation, and the Legislative Assembly shall by a general law exempt from taxation property used exclusively for school, religious, cemetery or charitable purposes and personal property to any amount not exceeding in value two hundred dollars for each individual liable to taxation; but the Legislative Assembly may, by law, provide for the payment of a per centum of gross earnings of railroad companies to be paid in lieu of all State, county, township and school taxes on property exclusively used in and about the prosecution of the business of such companies as common carriers, but no real estate of said corporations shall be exempted from taxation in the same manner, and on the same basis as other real estate is taxed, except roadbed, right of way, shops and buildings used exclusively in their business as common carriers, and whenever and so long as such law providing for the payment of a per centum on earnings shall be in force, that part of section 179 of this article

relating to assessment of railroad property shall cease to be in force.

SEC. 177. All improvements on land shall be assessed in accordance with section 179, but plowing shall not be considered as an improvement or add to the value of land for the purpose of assessment.

SEC. 178. The power of taxation shall never be surrendered or suspended by any grant or contract to which the State or any county or other municipal corporation shall be a party.

SEC. 179. All property, except as hereinafter in this section provided, shall be assessed in the county, city, township, town, village or district in which it is situated, in the manner prescribed by law. The franchise, roadway, roadbed, rails and rolling stock of all railroads operated in this state shall be assessed by the state board of equalization at their actual value and such assessed valuation shall be apportioned to the counties, cities, towns, townships and districts in which said roads are located, as a basis for taxation of such property in proportion to the number of miles of railway laid in such counties, cities, towns, townships and districts.

SEC. 180. The Legislative Assembly may provide for the levy, collection and disposition of an annual poll tax of not more than one dollar and fifty cents (\$1.50) on every male inhabitant of this state over twenty-one and under fifty years of age, except paupers, idiots, insane persons and Indians not taxed.

SEC. 181. The Legislative Assembly shall pass all laws necessary to carry out the provisions of this article.

## ARTICLE XII.

### PUBLIC DEBT AND PUBLIC WORKS.

SEC. 182. The state may, to meet casual deficits or failure in the revenue, or in case of extraordinary emergencies, contract debts, but such debts shall never in the aggregate exceed the sum of two hundred thousand dollars, exclusive of what may be the debt of North Dakota at the time of the adoption of this Constitution. Every such debt shall be authorized by law for certain purposes to be definitely mentioned therein, and every such law shall provide for levying an annual tax sufficient to pay the interest semi-annually, and the principal within thirty years from the passage of such law, and shall specially appropriate the proceeds of such tax to the payment of said principal and interest, and such appropriation shall not be repealed nor the tax discontinued until such debt, both principal and interest, shall have been fully paid. No debt in excess of the limit named shall be incurred except for the purpose of repelling invasion, suppressing insurrection, defending the state in time of war, or to provide for public defense in case of

threatened hostilities; but the issuing of new bonds to refund existing indebtedness, shall not be construed to be any part or portion of said two hundred thousand dollars.

SEC. 183. The debt of any county, township, town, school district or any other political subdivision, shall never exceed five (5) per centum upon the assessed value of the taxable property therein; *Provided*, That any incorporated city may, by a two-thirds vote, increase such indebtedness three (3) per centum on such assessed value beyond said five (5) per cent. limit. In estimating the indebtedness which a city, county, township, school district or any other political subdivision may incur, the entire amount of existing indebtedness, whether contracted prior or subsequent to the adoption of this constitution shall be included; *Provided, further*, That any incorporated city may become indebted in any amount not exceeding four (4) per centum on such assessed value without regard to the existing indebtedness of such city, for the purpose of constructing or purchasing water works for furnishing a supply of water to the inhabitants of such city, or for the purpose of constructing sewers, and for no other purpose whatever. All bonds or obligations in excess of the amount of indebtedness permitted by this constitution, given by any city, county, township, town, school district, or any other political subdivision, shall be void.

SEC. 184. Any city, county, township, town, school district or any other political subdivision incurring indebtedness shall, at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due, and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrevocable until such debt be paid.

SEC. 185. Neither the State nor any county, city, township, town, school district or any other political subdivision shall loan or give its credit or make donations to or in aid of any individual, association or corporation, except for necessary support of the poor, nor subscribe to or become the owner of the capital stock of any association or corporation, nor shall the State engage in any work of internal improvement unless authorized by a two-thirds vote of the people.

SEC. 186. No money shall be paid out of the state treasury except upon appropriation by law and on warrant drawn by the proper officer and no bills, claims, accounts or demands against the state, or any county or other political subdivision, shall be audited, allowed or paid until a full itemized statement in writing shall be filed with the officer or officers, whose duty it may be to audit the same.

SEC. 187. No bond or evidence of indebtedness of the state shall be valid unless the same shall have indorsed thereon a certi-

ificate, signed by the Auditor and Secretary of State showing that the bond or evidence of debt is issued pursuant to and is within the debt limit. No bond or evidence of debt of any county, or bond of any township or other political subdivision shall be valid unless the same have endorsed thereon a certificate signed by the county auditor, or other officer authorized by law to sign such certificate, stating that said bond, or evidence of debt, is issued pursuant to law and is within the debt limit.

### ARTICLE XIII.

#### MILITIA.

SEC. 188. The militia of this State shall consist of all able-bodied male persons residing in the state, between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States or of this State. Persons whose religious tenets or conscientious scruples forbid them to bear arms shall not be compelled to do so in times of peace, but shall pay an equivalent for a personal service.

SEC. 189. The militia shall be enrolled, organized, uniformed, armed and disciplined in such a manner as shall be provided by law, not incompatible with the Constitution or laws of the United States.

SEC. 190. The Legislative Assembly shall provided by law for the establishment of volunteer organizations of the several arms of the service, which shall be classed as active militia; and no other organized body of armed men shall be permitted to perform military duty in this State except the army of the United States without the proclamation of the Governor of the State.

SEC. 191. All militia officers shall be appointed or elected in such a manner as the Legislative Assembly shall provide.

SEC. 192. The commissioned officers of the militia shall be commissioned by the Governor, and no commissioned officer shall be removed from office except by sentence of court martial, pursuant to law.

SEC. 193. The militia forces shall in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at musters, parades and elections of officers, and in going to and returning from the same.

### ARTICLE XIV.

#### IMPEACHMENT AND REMOVAL FROM OFFICE.

SEC. 194. The House of Representatives shall have the sole power of impeachment. The concurrence of a majority of all members elected shall be necessary to an impeachment.

SEC. 195. All impeachments shall be tried by the senate. When sitting for that purposes the senators shall be upon oath or

affirmation to do justice according to the law and evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. When the Governor or Lieutenant Governor is on trial, the presiding judge of the supreme court shall preside.

SEC. 196. The Governor and other state and judicial officers, except county judges, justices of the peace, and police magistrates, shall be liable to impeachment for habitual drunkenness, crimes, corrupt conduct, or malfeasance or misdemeanor in office, but judgment in such cases shall not extend further than removal from office and disqualification to hold any office of trust, or profit under the state. The person accused, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

SEC. 197. All officers not liable to impeachment shall be subject to removal for misconduct, malfeasance, crime or misdemeanor in office, or for habitual drunkenness or gross incompetency in such manner as may be provided by law.

SEC. 198. No officer shall exercise the duties of his office after he shall have been impeached and before his acquittal.

SEC. 199. On trial of impeachment against the Governor, the Lieutenant Governor shall not act as a member of the court.

SEC. 200. No person shall be tried on impeachment before he shall have been served with a copy thereof, at least twenty days previous to the day set for trial.

SEC. 201. No person shall be liable to impeachment twice for the same offense.

## ARTICLE XV.

### FUTURE AMENDMENTS.

SEC. 202. Any amendment or amendments to this Constitution may be proposed in either house of the Legislative Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment shall be entered on the journal of the house with the yeas and nays taken thereon, and referred to the Legislative Assembly to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice, and if in the Legislative Assembly so next chosen as aforesaid such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the Legislative Assembly to submit such proposed amendment or amendments to the people in such manner and at such time as the Legislative Assembly shall provide; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the Legislative Assembly voting thereon, such amendment or amendments

shall become a part of the Constitution of this state. If two or more amendments shall be submitted at the same time they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

## ARTICLE XVI.

### COMPACT WITH THE UNITED STATES.

The following article shall be irrevocable without the consent of the United States and the people of this State.

SEC. 203. First. Perfect toleration of religious sentiment shall be secured, and no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship.

Second. The people inhabiting this state do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and that said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States residing without this state shall never be taxed at a higher rate than the lands belonging to residents of this state; that no taxes shall be imposed by this state on lands or property therein, belonging to, or which may hereafter be purchased by, the United States, or reserved for its use. But nothing in this article shall preclude this state from taxing as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person, a title thereto, by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any acts of congress containing a provision exempting the lands thus granted from taxation, which last mentioned lands shall be exempt from taxation so long, and to such an extent, as is, or may be provided in the act of congress granting the same.

Third. In order that payment of the debts and liabilities contracted or incurred by and in behalf of the Territory of Dakota may be justly and equitably provided for and made, and in pursuance of the requirements of an act of congress approved February 22, 1889, entitled "An act to provide for the division of Dakota into two states and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments and to be admitted into the Union on an equal footing with the original states, and to make donations of public lands to such states," the states of North Dakota and



South Dakota, by proceedings of a joint commission, duly appointed under said act, the sessions whereof were held at Bismarck in said State of North Dakota, from July 16, 1889, to July 31, 1889, inclusive, have agreed to the following adjustment of the amounts of the debts and liabilities of the Territory of Dakota which shall be assumed and paid by each of the States of North Dakota and South Dakota, respectively, to-wit:

This agreement shall take effect and be in force from and after the admission into the Union, as one of the United States of America, of either the State of North Dakota or the State of South Dakota.

The words "State of North Dakota" wherever used in this agreement, shall be taken to mean the Territory of North Dakota in case the State of South Dakota shall be admitted into the Union prior to the admission into the Union of the State of North Dakota; and the words "State of South Dakota," wherever used in this agreement, shall be taken to mean the Territory of South Dakota in case the State of North Dakota shall be admitted into the Union prior to the admission into the Union of the State of South Dakota.

The said State of North Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of North Dakota, and shall pay all warrants issued under and by virtue of that certain Act of the Legislative Assembly of the Territory of Dakota, approved March 8, 1889, entitled "An Act to provide for the refunding of outstanding warrants drawn on the Capitol Building Fund."

The said State of South Dakota shall assume and pay all bonds issued by the Territory or Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of South Dakota.

That is to say: The State of North Dakota shall assume and pay the following bonds and indebtedness, to-wit:

Bonds issued on account of the Hospital for Insane at Jamestown, North Dakota, the face aggregate of which is \$266,000; also bonds issued on account of the North Dakota University at Grand Forks, North Dakota, the face aggregate of which is \$96,700; also, bonds issued on account of the Penitentiary at Bismarck, North Dakota, the face aggregate of which is \$93,600; also, refunding Capitol Building warrants dated April 1, 1889, \$83,507.46.

And the State of South Dakota shall assume and pay the following bonds and indebtedness, to-wit:

Bonds issued on account of the Hospital for the Insane at Yankton, South Dakota, the face aggregate of which is \$210,000; also, bonds issued on account of the School for Deaf Mutes, at

.....

Sioux Falls, South Dakota, the face aggregate of which is \$51,000; also, bonds issued on account of the University at Vermillion, South Dakota, the face aggregate of which is \$75,000; also, bonds issued on account of the Penitentiary at Sioux Falls, South Dakota, the face aggregate of which is \$94,300; also, bonds issued on account of the Agricultural College at Brookings, South Dakota, the face aggregate of which is \$97,500; also, bonds issued on account of the Normal School at Madison, South Dakota, the face aggregate of which is \$49,400; also, bonds issued on account of the School of Mines at Rapid City, South Dakota, the face aggregate of which is \$33,000; also, bonds issued on account of the Reform School at Plankinton, South Dakota, the face aggregate of which is \$30,000; also, bonds issued on account of the Normal School at Spearfish, South Dakota, the face aggregate of which is \$25,000; also bonds issued on account of the Soldiers' Home at Hot Springs, South Dakota, the face aggregate of which is \$45,000.

The States of North Dakota and South Dakota shall pay one-half each of all liabilities now existing or hereafter and prior to the taking effect of this agreement incurred, except those heretofore or hereafter incurred on account of public institutions, grounds or buildings, except as otherwise herein specifically provided.

The State of South Dakota shall pay to the State of North Dakota \$46,500, on account of the excess of Territorial appropriations for the permanent improvement of territorial institutions which under this agreement will go to South Dakota, and in full of the undivided one-half interest of North Dakota in the territorial library, and in full settlement of unbalanced accounts, and of all claims against the territory, of whatever nature, legal or equitable, arising out of the alleged erroneous or unlawful taxation of Northern Pacific Railroad lands, and the payment of said amount shall discharge and exempt the State of South Dakota from all liability for or on account of the several matters hereinbefore referred to; nor shall either state be called upon to pay or answer to any portion of liability hereafter arising or accruing on account of transactions heretofore had, which liability would be a liability of the Territory of Dakota had such territory remained in existence, and which liability shall grow out of matters connected with any public institutions, grounds or buildings of the territory situated or located within the boundaries of the other state.

A final adjustment of accounts shall be made upon the following basis: North Dakota shall be charged with all sums paid on account of the public institutions, grounds or buildings located within its boundaries on account of the current appropriations since March 9, 1889, and South Dakota shall be charged with all sums paid on account of public institutions, grounds or buildings located within its boundaries on the same account and during the same time. Each state shall be charged with one-half of all other

expenses of the territorial government during the same time. All moneys paid into the treasury during the period from March 8, 1889, to the time of taking effect of this agreement by any county, municipality or person within the limits of the proposed state of North Dakota, shall be credited to the State of North Dakota; and all sums paid into said treasury within the same time by any county, municipality or person within the limits of the proposed State of South Dakota shall be credited to the State of South Dakota; except that any and all taxes on gross earnings paid into said treasury by railroad corporations, since the 8th day of March, 1889, based upon earnings of years prior to 1888, under and by virtue of the act of the Legislative Assembly of the Territory of Dakota, approved March 7, 1889, and entitled "An Act providing for the levy and collection of taxes upon property of railroad companies in this Territory," being Chapter 107 of the Session Laws of 1889, (that is, the part of such sums going to the Territory) shall be equally divided between the States of North Dakota and South Dakota; and all taxes heretofore or hereafter paid into said treasury under and by virtue of the act last mentioned, based on the gross earnings of the year 1888, shall be distributed as already provided by law, except that so much thereof as goes to the territorial treasury shall be divided as follows: North Dakota shall have so much thereof as shall be or has been paid by railroads within the limits of the proposed State of North Dakota, and South Dakota so much thereof as shall be or has been paid by railroads within the limits of the proposed State of South Dakota; each state shall be credited also with all balances of appropriations made by the Seventeenth Legislative Assembly of the Territory of Dakota for the account of the public institutions, grounds or buildings situated within its limits, remaining unexpended on March 8, 1889. If there shall be any indebtedness except the indebtedness represented by the bonds and refunding warrants hereinbefore mentioned, each state shall at the time of such final adjustment of accounts, assume its share of said indebtedness as determined by the amount paid on account of the public institutions, grounds or buildings of such state in excess of the receipts from counties, municipalities, railroad corporations or persons within the limits of said state, as provided in this article; and if there should be a surplus at the time of such final adjustment, each state shall be entitled to the amounts received from counties, municipalities, railroad corporations or persons within its limits over and above the amount charged it.

And the State of North Dakota hereby obligates itself to pay such part of the debts and liabilities of the Territory of Dakota as is declared by the foregoing agreement to be its proportion thereof, the same as if such proportion had been originally created by said State of North Dakota as its own debt or liability.

SEC. 204. Jurisdiction is ceded to the United States over the

military reservations of Fort Abraham Lincoln, Fort Buford, Fort Pembina and Fort Totten, heretofore declared by the President of the United States; *Provided*, Legal process, civil and criminal, of this state, shall extend over such reservations in all cases in which exclusive jurisdiction is not vested in the United States, or of crimes not committed within the limits of such reservations.

SEC. 205. The State of North Dakota hereby accepts the several grants of land granted by the United States to the State of North Dakota by an act of congress entitled "An act to provide for the division of Dakota into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington to form Constitutions and state governments, and to be admitted into the Union on equal footing with the original states, and to make donations of public lands to such states," under the conditions and limitations therein mentioned; reserving the right however to apply to congress for modifications of said conditions and limitations in case of necessity.

## ARTICLE XVII.

### MISCELLANEOUS.

SEC. 206. The name of this state shall be "North Dakota." The State of North Dakota shall consist of all the territory included within the following boundaries, to-wit: Commencing at a point in the main channel of the Red River of the north, where the forty-ninth degree of north latitude crosses the same; thence south up the main channel of the same and along the boundary line of the State of Minnesota to a point where the Seventh Standard parallel intersects the same; thence west along said Seventh Standard parallel produced due west to a point where it intersects the twenty-seventh meridian of longitude west from Washington; thence north on said meridian to a point where it intersects the forty-ninth degree of north latitude; thence east along said line to place of beginning.

SEC. 207. The following described seal is hereby declared to be and hereby constituted the Great Seal of the State of North Dakota, to-wit: A tree in the open field, the trunk of which is surrounded by three bundles of wheat; on the right a plow, anvil and sledge; on the left a bow crossed with three arrows, and an Indian on horseback pursuing a buffalo towards the setting sun; the foliage of the tree arched by a half circle of forty two stars, surrounded by the motto "Liberty and Union now and forever, one and inseparable;" the words "Great Seal" at the top; the words "State of North Dakota" at the bottom; "October 1st" on the left and "1889" on the right. The seal to be two and one-half inches in diameter.

SEC. 208. The right of the debtor to enjoy the comforts and necessaries of life shall be recognized by wholesome laws, exempt-

ing from forced sale to all heads of families a homestead the value of which shall be limited and defined by law, and a reasonable amount of personal property; the kind and value shall be fixed by law. This section shall not be construed to prevent liens against the homestead for labor done and materials furnished in the improvement thereof, in such manner as may be prescribed by law.

SEC. 209. The labor of children under twelve years of age, shall be prohibited in mines, factories and workshops in this state.

SEC. 210. All flowing streams and natural water courses shall forever remain the property of the State for mining, irrigating and manufacturing purposes.

SEC. 211. Members of the Legislative Assembly and judicial department except such inferior officers as may be by law exempted shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm as the case may be) that I will support the Constitution of the United States and the Constitution of the State of North Dakota; and that I will faithfully discharge the duties of the office of ..... according to the best of my ability, so help me God," (if an oath), (under pains and penalties of perjury), if an affirmation, and no other oath, declaration, or test shall be required as a qualification for any office or public trust.

SEC. 212. The exchange of "black lists" between corporations shall be prohibited.

SEC. 213. The real and personal property of any woman in this State, acquired before marriage, and all property to which she may after marriage become in any manner rightfully entitled, shall be her separate property and shall not be liable for the debts of her husband.

## ARTICLE XVIII.

### CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT.

SEC. 214. Until otherwise provided by law, the member of the House of Representatives of the United States apportioned to this State, shall be elected at large.

Until otherwise provided by law, the Senatorial and Representative Districts shall be formed, and the senators and the representatives shall be apportioned as follows:

The First District shall consist of the townships of Walhalla, St. Joseph, Neche, Pembina, Bathgate, Carlisle, Joliet, Midland, Lincoln and Drayton, in the county of Pembina, and be entitled to one senator and two representatives.

The Second District shall consist of the townships of St. Thomas, Hamilton, Cavalier, Akra, Beaulieu, Thingvalla, Gardar,

Park, Crystal, Elora and Lodema, in the county of Pembina, and be entitled to one senator and two representatives.

The Third District shall consist of the townships of Perth, Latona, Adams, Silvesta, Cleveland, Morton, Vesta, Tiber, Medford, Vernon, Golden, Lampton, Eden, Rushford, Kensington, Dundee, Ops, Prairie Center, Fertile, Park River and Glenwood, in the county of Walsh, and be entitled to one senator and two representatives.

The Fourth District shall consist of the townships of Forest River, Walsh Center, Grafton, Farmington, Ardock, Village of Ardock, Harrison, City of Grafton, Oakwood, Martin, Walshville, Pulaski, Ackton, Minto and St. Andrews, in the county of Walsh, and be entitled to one senator and three representatives.

The Fifth District shall consist of the townships of Gilby, Johnstown, Straban, Wheatfield, Hegton, Arvilla, Avon, Northwood, Lind, Grace, Larimore, and the city of Larimore, Elm Grove, Agnes, Inkster, Elkmount, Oakwood, Niagara, Moraine, Logan and Loretta in the county of Grand Forks, and be entitled to one senator and two representatives.

The Sixth District shall consist of the Third, Fourth, Fifth and Sixth wards of the city of Grand Forks, as now constituted, and the townships of Falconer, Harvey, Turtle River, Ferry, Rye, Blooming, Meckinock, Lakeville and Levant in the county of Grand Forks and be entitled to one senator and two representatives.

The Seventh District shall consist of the First and Second wards of the city of Grand Forks, as now constituted, and the townships of Grand Forks, Brenna, Oakville, Chester, Pleasant View, Fairfield, Allendale, Walle, Bentru, Americus, Michigan, Union and Washington, in the county of Grand Forks, and be entitled to one senator and two representatives.

The Eighth District shall consist of the county of Traill and be entitled to one senator and four representatives.

The Ninth District shall consist of the township of Fargo and the City of Fargo in the County of Cass and the fractional township number 139 in range 48, and be entitled to one senator and two representatives.

The Tenth District shall consist of the townships of Noble, Wiser, Harwood, Reed, Barnes, Stanley, Pleasant, Kenyon, Gardner, Berlin, Raymond, Mapleton, Warren, Norman, Elm River, Harmony, Durbin, Addison, Davenport, Casselton and the City of Casselton, in the County of Cass, and be entitled to one senator and three representatives.

The Eleventh District shall consist of the townships of Webster, Rush River, Hunter, Arthur, Amenia, Everest, Maple River, Leonard, Dows, Erie, Empire, Wheatland, Gill, Walburg, Watson, Page, Rich, Ayr, Buffalo, Howes, Eldred, Highland, Rochester,

Lake, Cornell, Tower, Hill, Clifton and Pontiac, in the County of Cass, and be entitled to one senator and three representatives.

The Twelfth District shall consist of the county of Richland and be entitled to one senator and three representatives.

The Thirteenth District shall consist of the county of Sargent and be entitled to one senator and two representatives.

The Fourteenth District shall consist of the county of Ransom and be entitled to one senator and two representatives.

The Fifteenth District shall consist of the county of Barnes and be entitled to one senator and two representatives.

The Sixteenth District shall consist of the counties of Steele and Griggs and be entitled to one senator and two representatives.

The Seventeenth District shall consist of the county of Nelson and be entitled to one senator and one representative.

The Eighteenth District shall consist of the county of Cavalier and be entitled to one senator and two representatives.

The Nineteenth District shall consist of the counties of Towner and Rolette and be entitled to one senator and one representative.

The Twentieth District shall consist of the counties of Benson and Pierce and be entitled to one senator and two representatives.

The Twenty-first District shall consist of the county of Ramsey and be entitled to one senator and two representatives.

The Twenty-second District shall consist of the counties of Eddy, Foster and Wells and be entitled one senator and two representatives.

The Twenty-third District shall consist of the county of Stutsman, and be entitled to one senator and two representatives.

The Twenty-fourth District shall consist of the county of La-Moure, and be entitled to one senator and one representative.

The Twenty-fifth District shall consist of the county of Dickey, and be entitled to one senator and two representatives.

The Twenty-sixth District shall consist of the counties of Emmons, McIntosh, Logan and Kidder, and be entitled to one senator and two representatives.

The Twenty-seventh District shall consist of the county of Burleigh, and be entitled to one senator and two representatives.

The Twenty-eighth District shall consist of the counties of Bottineau and McHenry and be entitled to one senator and one representative.

The Twenty-ninth District shall consist of the counties of Ward, McLean, and all the unorganized counties laying north of the Missouri river, and be entitled to one senator and one representative.

The Thirtieth District shall consist of the counties of Morton and Oliver, and be entitled to one senator and two representatives.

The Thirty-first District shall consist of the counties of Mercer, Stark and Billings and all the unorganized counties lying south of the Missouri river, and be entitled to one senator and one representative.

## ARTICLE XIX.

### PUBLIC INSTITUTIONS.

SEC. 215. The following public institutions of the State are permanently located at the places hereinafter named, each to have the lands specifically granted to it by the United States, in the Act of Congress, approved February 22, 1889, to be disposed of and used in such manner as the Legislative Assembly may prescribe, subject to the limitations provided in the article on school and public lands contained in this Constitution.

First. The seat of government at the city of Bismarck in the county of Burleigh.

Second. The State University and the School of Mines at the city of Grand Forks, in the county of Grand Forks.

Third. The Agricultural College at the city of Fargo in the county of Cass.

Fourth. A State Normal School at the city of Valley City, in the county of Barnes; and the Legislative Assembly in apportioning the grant of eighty thousand acres of land for Normal schools made in the Act of Congress referred to shall grant to the said Normal School at Valley City as aforementioned, fifty thousand (50,000) acres, and said lands are hereby appropriated to said institution for that purpose.

Fifth. The Deaf and Dumb Asylum at the city of Devils Lake in the county of Ramsey.

Sixth. A State Reform School at the city of Mandan in the county of Morton.

Seventh. A State Normal School at the city of Mayville, in the county of Traill. And the Legislative Assembly in apportioning the grant of lands made by Congress, in the act aforesaid for State Normal Schools, shall assign thirty thousand acres to the institution hereby located at Mayville, and said lands are hereby appropriated for said purpose.

Eighth. A State Hospital for the Insane and an Institution for the Feeble-Minded, in connection therewith, at the city of Jamestown in the county of Stutsman. And the Legislative Assembly shall appropriate twenty thousand acres of the grant of lands made by the act of Congress aforesaid for "Other Educational and Charitable Institutions" to the benefit and for the endowment of said institution.

SEC. 216. The following named public institutions are hereby permanently located as hereinafter provided, each to have so much



of the remaining grant of one hundred and seventy thousand acres of land made by the United States for "Other Educational and Charitable Institutions," as is allotted below, viz:

First. A Soldiers' Home, when located, or such other charitable institution as the Legislative Assembly may determine, at Lisbon, in the county of Ransom, with a grant of forty thousand acres of land.

Second. A Blind Asylum, or such other institution as the Legislative Assembly may determine, at such place in the county of Pembina as the qualified electors of said county may determine at an election to be held as prescribed by the Legislative Assembly, with a grant of thirty thousand acres.

Third. An Industrial School and School for Manual Training, or such other educational or charitable institution as the Legislative Assembly may provide, at the town of Ellendale in the county of Dickey, with a grant of forty thousand acres.

Fourth. A School of Forestry or such other institution as the Legislative Assembly may determine, at such place in one of the counties of McHenry, Ward, Bottineau, or Rollette, as the electors of said counties may determine by an election for that purpose, to be held as provided by the Legislative Assembly.

Fifth. A scientific school, or such "other educational or charitable institution" as the Legislative Assembly may prescribe, at the city of Wahpeton, county of Richland, with a grant of forty thousand acres; *Provided*, That no other institution of a character similar to any one of those located by this article shall be established or maintained without a revision of this Constitution.

## ARTICLE XX.

### PROHIBITION.

To be submitted to a separate vote of the people as provided by the schedule and ordinance.

SEC. 217. No person, association or corporation shall within this State, manufacture for sale or gift, any intoxicating liquors and no person, association or corporation shall import any of the same for sale or gift, or keep or sell or offer the same for sale, or gift, barter or trade as a beverage. The Legislative Assembly shall by law prescribe regulations for the enforcement of the provisions of this article and shall thereby provide suitable penalties for the violation thereof.

### SCHEDULE.

SECTION 1. That no inconvenience may arise from a change of territorial government to state government, it is declared that all writs, actions, prosecutions, claims and rights of individuals and bodies corporate shall continue as if no change of government had taken place, and all processes which may, before the organization of the judicial department under this Constitution, be

issued under the authority of the Territory of Dakota shall be as valid as if issued in the name of the State.

SEC. 2. All laws now in force in the Territory of Dakota, which are not repugnant to this Constitution, shall remain in force until they expire by their own limitations or be altered or repealed.

SEC. 3. All fines, penalties, forfeitures and escheats accruing to the Territory of Dakota shall accrue to the use of the states of North Dakota and South Dakota and may be sued for and recovered by either of said states as necessity may require.

SEC. 4. All recognizances, bonds, obligations or other undertakings heretofore taken, or which may be taken before the organization of the judicial department under this Constitution, shall remain valid, and shall pass over to, and may be prosecuted in the name of the state; all bonds, obligations or other undertakings executed to this territory, or to any officer in his official capacity, shall pass over to the proper state authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly; all criminal prosecutions and penal actions which have arisen, or may arise before the organization of the judicial department, under this Constitution, or which shall then be pending, may be prosecuted to judgment and execution in the name of the state.

SEC. 5. All property, real and personal, and credits, claims and choses in action belonging to the Territory of Dakota at the time of the adoption of this Constitution, shall be vested in and become the property of the States of North Dakota and South Dakota.

SEC. 6. Whenever any two of the judges of the Supreme court of the State, elected under the provisions of this Constitution shall have qualified in their offices, the causes then pending in the Supreme court of the Territory on appeal or writ of error from the district courts of any county or subdivision within the limits of this State, and the papers, records and proceedings of said court shall pass into the jurisdiction and possession of the Supreme court of the State, except as otherwise provided in the enabling act of Congress, and until so superseded the Supreme court of the Territory and the judges thereof shall continue, with like powers and jurisdiction, as if this Constitution had not been adopted. Whenever the judge of the district court of any district elected under the provisions of this Constitution shall have qualified in his office, the several causes then pending in the district court of the Territory within any county in such district, and the records, papers and proceedings of said district court, and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the district court of the State for such county, except as provided in the enabling act of Congress, and until the district courts of this Territory shall be superseded in the manner aforesaid, the said district courts and the judges thereof shall continue with the same jurisdiction and power to be exercised in the same judicial districts respectively as heretofore constituted under the laws of the Territory.

SEC. 7. Until otherwise provided by law, the seals now in use in the supreme and district courts of this Territory are hereby declared to be the seals of the supreme and district courts respectively of the State.

SEC. 8. Whenever this Constitution shall go into effect, the books, records and papers, and proceedings of the probate court in each county, and all causes and matters of administration and other matters pending therein, shall pass into the jurisdiction and possession of the county court of the same county, and the said county court shall proceed to final decree or judgment, order or other determination in the said several matters and causes as the said probate court might have done if this Constitution had not been adopted. And until the election and qualification of the judges of the county courts provided for in this Constitution, the probate judges shall act as the judges of the county courts within their respective counties, and the seal of the probate court in each county shall be the seal of the county court therein, until the said court shall have procured a proper seal.

SEC. 9. The terms "probate court" or "probate judge" whenever occurring in the statutes of the territory shall, after this Constitution goes into effect, be held to apply to the county court or county judge.

SEC. 10. All territorial, county and precinct officers, who may be in office at the time this Constitution takes effect, whether holding their offices under the authority of the United States or of the Territory, shall hold and exercise their respective offices, and perform the duties thereof as prescribed in this Constitution, until their successors shall be elected and qualified in accordance with the provisions of this Constitution, and official bonds of all such officers shall continue in full force and effect as though this Constitution had not been adopted; and such officers for their term of service, under this Constitution, shall receive the same salaries and compensation as is by this Constitution, or by the laws of the territory, provided for like officers; *Provided*, That the county and precinct officers shall hold their offices for the term for which they were elected. There shall be elected in each organized county in this State, at the election to be held for the ratification of this Constitution, a clerk of the district court, who shall hold his office under said election until his successor is duly elected and qualified. The judges of the district court shall have power to appoint states attorneys in any organized county where no such attorneys have been elected, which appointment shall continue until the general election to be held in 1890, and until his successor is elected and qualified.

SEC. 11. This Constitution shall take effect and be in full force immediately upon the admission of the territory as a state.

SEC. 12. Immediately upon the adjournment of this Convention the Governor of the Territory, or in case of his absence or failure to act, the Secretary of the Territory, or in case of his absence or failure to act, the President of the Constitutional Convention shall issue a proclamation, which shall be published and a copy thereof mailed to the chairman of the board of county commissioners of each county, calling an election by the people on the first Tuesday in October, 1889, of all the state and district officers created and made elective by this Constitution. This Constitution shall be submitted for adoption or rejection at said election to a vote of the electors qualified by the laws of this territory to vote at all elections. At the election provided for herein the qualified voters shall vote directly for or against this Constitution and for or against the article separately submitted.

SEC. 13. The board of commissioners of the several counties shall thereupon order such election for said day, and shall cause notice thereof to be given "for the period of 20 days in the manner provided by law." Every qualified elector of the territory, at the date of said election, shall be entitled to vote thereat. Said election shall be conducted in all respects in the same manner as provided by the laws of the territory for general elections, and the returns for all state and district officers, and members of the Legislative Assembly, shall be made to the canvassing board hereinafter provided for.

SEC. 14. The Governor, Secretary and Chief Justice or a majority of them, shall constitute a board of canvassers to canvass the vote of such election for all state and district officers and members of the Legislative Assembly. The said board shall assemble at the seat of government of the Territory on the fifteenth day after the day of such election (or on the following day if such day falls on Sunday), and proceed to canvass the votes on the adoption of this Constitution and for all State and district officers and members of the Legislative Assembly in the manner provided by the laws of the Territory for canvassing the vote for Delegate to Congress, and they shall issue certificates of election to the persons found to be elected to said offices severally, and shall make and file with the Secretary of the Territory an abstract certified by them, of the number of votes cast for or against the adoption of the Constitution, and for each person for each of said offices and of the total number of votes cast in each county.

SEC. 15. All officers elected at such election shall, within sixty days after the date of the executive proclamation admitting the State of North Dakota

into the Union, take the oath required by this Constitution, and give the same bond required by the law of the Territory to be given in case of like officers of the Territory and districts, and shall thereupon enter upon the duties of their respective offices; but the Legislative Assembly may require by law all such officers to give other or further bonds as a condition of their continuance in office.

SEC. 16. The judges of the district court who shall be elected at the election herein provided for shall hold their offices until the first Monday in January, 1893, and until their successors are elected and qualified. All other state officers, except judges of the supreme court, who shall be elected at the election herein provided for, shall hold their offices until the first Monday in January, 1891, and until their successors are elected and qualified. Until otherwise provided by law the judges of the supreme court shall receive for their services the salary of four thousand dollars per annum, payable quarterly; and the district judges shall receive for their services the salary of three thousand dollars per annum, payable quarterly.

SEC. 17. The Governor-elect of the state immediately upon his qualifying and entering upon the duties of his office shall issue his proclamation convening the Legislative Assembly of the State at the seat of government, on a day to be named in said proclamation, and which shall not be less than fifteen nor more than forty days after the date of such proclamation. And said Legislative Assembly after organizing shall proceed to elect two senators of the United States for the State of North Dakota; and at said election the two persons who shall receive a majority of all the votes cast by the said senators and representatives shall be elected such United States Senators. And the presiding officers of the senate and house of representatives shall each certify the election to the Governor and Secretary of the State of North Dakota; and the Governor and Secretary of State shall certify the elections of such senators as provided by law.

SEC. 18. At the election herein provided for there shall be elected a Representative to the Fifty-first Congress of the United States, by the electors of the state at large.

SEC. 19. It is hereby made the duty of the Legislative Assembly at its first session to provide for the payment of all debts and indebtedness authorized to be incurred by the Constitutional Convention of North Dakota, which shall remain unpaid after the appropriation made by Congress for the same shall have been exhausted.

SEC. 20. There shall be submitted at the same election at which this Constitution is submitted for rejection or adoption, Article 20 entitled "prohibition" and persons who desire to vote for said article shall have written or printed on their ballots "for prohibition," and all persons desiring to vote against said article shall have written or printed on their ballots "against prohibition." If it shall appear according to the returns herein provided for that a majority of all the votes cast at said election for and against prohibition are for prohibition, then said Article 20 shall be and form a part of this Constitution and be in full force and effect as such from the date of the admission of this state into the Union. But if a majority of said votes shall appear according to said returns to be against prohibition, then said Article 20 shall be null and void, and shall not be a part of this Constitution.

SEC. 21. The agreement made by the Joint Commission of the Constitutional Conventions of North Dakota and South Dakota concerning the records, books and archives of the Territory of Dakota, is hereby ratified and confirmed; which agreement is in the words following: That is to say—

The following books, records and archives of the Territory of Dakota shall be the property of North Dakota, to-wit: All records, books and archives in the offices of the Governor and Secretary of the Territory (except records of Articles of Incorporation of Domestic Corporations, returns of election of Delegates to the Constitutional Convention of 1889 for South Dakota, returns of elections held under the so called Local Option Law, in counties within the

limits of South Dakota, bonds of Notaries Public appointed for counties within the limits of South Dakota, papers relating to the organization of counties situate within the limits of South Dakota, all which records and archives are a part of the records and archives of said Secretary's office; excepting also, census returns from counties situate within the limits of South Dakota and papers relating to requisitions issued upon the application of officers of counties situate within the limits of South Dakota, all which are a part of the records and archives of said Governor's office). And the following records, books and archives shall also be the property of the State of North Dakota, to-wit:

Vouchers in the office or custody of the Auditor of this Territory relating to expenditures on account of public institutions, grounds or buildings situate within the limits of North Dakota. One Warrant Register in the office of the Treasurer of this territory—being a record of warrants issued under and by virtue of Chapter 24 of the laws enacted by the Eighteenth Legislative Assembly of Dakota Territory. All letters, receipts and vouchers in the same office now filed by counties and pertaining to counties within the limits of North Dakota. Paid and canceled coupons in the same office representing interest on bonds of South Dakota which said State of North Dakota is to assume and pay. Reports of gross earnings of the year 1888 in the same office, made by corporations operating lines of railroads situated wholly or mainly within the limits of North Dakota. Records and papers of the office of the Public Examiner of the Second District of the territory. Records and papers of the office of the District Board of Agriculture. Records and papers in the office of the Board of Pharmacy of the District of North Dakota.

All records, books and archives of the Territory of Dakota which it is not herein agreed shall be the property of North Dakota, shall be the property of South Dakota.

The following books shall be copied and the copies shall be the property of North Dakota and the cost of such copies shall be borne equally by said States of North Dakota and South Dakota. That is to say:

Appropriation Ledger for years ending November 1889-90—one volume.

The Auditor's Current Warrant Register—one volume.

Insurance Record for 1889—one volume.

Treasurer's Cash Book—"D."

Assessment Ledger—"B."

Dakota Territory Bond Register—one volume.

Treasurer's Current Ledger—one volume.

The originals of the foregoing volumes which are to be copied shall at any time after such copying shall have been completed, be delivered on demand to the proper authorities of the State of South Dakota.

All other records, books and archives which it is hereby agreed shall be the property of South Dakota, shall remain at the Capitol of North Dakota until demanded by the Legislature of the State of South Dakota and until the State of North Dakota shall have had a reasonable time after such demand is made to provide copies or abstracts of such portions thereof as the said State of North Dakota may desire to have copies or abstracts of.

The State of South Dakota may also provide copies or abstracts of such records, books and archives, which it is agreed shall be the property of North Dakota, as said State of South Dakota shall desire to have copies or abstracts of.

The expense of all copies or abstracts of records, books and archives which it is herein agreed may be made, shall be borne equally by said two states.

SEC. 22. Should the counties containing lands which form a part of the grant of lands made by Congress to the Northern Pacific railroad company be compelled by law to refund moneys paid for such lands or any of them by purchasers thereof at tax sales thereof, based upon taxes illegally levied upon said lands, then and in that case the State of North Dakota shall appropriate the sum of \$25,000, or so much thereof as may be necessary to reimburse said

counties for the amount so received from said illegal tax sales and paid by said counties into the treasury of Dakota Territory.

SEC. 23. This Constitution shall after its enrollment be signed by the President of this Convention and the Chief Clerk thereof and such delegates as desire to sign the same, whereupon it shall be deposited in the office of the Secretary of the Territory, where it may be signed at any time by any delegate who shall be prevented from signing the same for any reasons at the time of the adjournment of this Convention.

SEC. 24. In case the territorial officers of the Territory of Dakota, or any of them who are now required by law to report to the Governor of the Territory, annually or biennially, shall prepare and publish such reports covering the transactions of their offices up to the time of the admission of the State of North Dakota into the Union, the Legislative Assembly shall make sufficient appropriations to pay one-half of the cost of such publication.

SEC. 25. The Governor and Secretary of the Territory are hereby authorized to make arrangements for the meeting of the first Legislative Assembly, and the inauguration of the State government.

SEC. 26. The Legislative Assembly shall provide for the editing, and for the publication, in an independent volume, of this Constitution, as soon as it shall take effect, and whenever it shall be altered or amended, and shall cause to be published in the same volume the Declaration of Independence, the Constitution of the United States and the Enabling Act.

Done at Bismarck, Dakota, in open Convention, this 17th day of August, A. D. 1889.

JOHN G. HAMILTON,  
Chief Clerk.

F. B. FANCHER,  
President.

Mr. Miller moved to adopt the Constitution as a whole as reported from the committee on enrolling and engrossing.

Which motion prevailed.

Mr. Williams moved that the roll be called and as the names are called the members go forward and sign the Constitution.

Mr. Johnson moved as an amendment that the members be invited to do so, that the motion be made in the form of an invitation instead of a mandate.

Which amendment was accepted.

Ayes and nays were demanded on Mr. Miller's motion to adopt the Constitution.

The roll being called, there were ayes, 40; nays, 23; viz.:

Those who voted in the affirmative were:

Messrs—  
Bean,  
Blewett,  
Brown,  
Budge,  
Camp,  
Carland,  
Chaffee,  
Clapp,  
Clark,  
Elliott,  
Fay,

Messrs—  
Gray,  
Griggs,  
Harris,  
Hegge,  
Holmes,  
Hoyt,  
Leach,  
Lohnes,  
Lowell,  
Meacham,  
McKenzie,

Messrs—  
Parsons of Morton,  
Parsons of Rolette,  
Powles,  
Ray,  
Rolfe,  
Rowe,  
Sandager,  
Shuman,  
Spaldiug,  
Stevens,  
Wellwood,

Flemington,  
Gayton,  
Glick,

Miller,  
Moer,

Williams,  
Mr. President.

Those who voted in the negative were:

Messrs—

Appleton,  
Bartlett of Griggs,  
Bennett,  
Best,  
Carothers,  
Colton,  
Douglas,  
Haugen,

Messrs—

Johnson,  
Lauder,  
Linwell,  
Mathews,  
Noble,  
Nomland,  
O'Brien,  
Powers,

Messrs—

Purcell,  
Pollock,  
Richardson,  
Selby,  
Slotten,  
Turner,  
Wallace.

Absent and not voting:

Messrs—

Allin  
Almen,  
Bartlett of Dickey,  
Bell,

Messrs—

Marrinan,  
McBride,  
McHugh,  
Paulson,

Messrs—

Peterson,  
Robertson,  
Scott,  
Whipple,

And so the motion to adopt the Constitution as a whole prevailed.

The motion of Mr. Williams as amended was adopted.

Mr. Moer moved to erase the names which have been signed to the Constitution and that the delegates sign in alphabetical order.

Which motion was lost.

Mr. Camp moved that the Chief Clerk be empowered to renumber the sections of the Constitution.

Which motion prevailed.

Mr. Rolfe moved that the Convention do now adjourn *sine die*.

Which motion prevailed and the Convention adjourned *sine die*.

JOHN G. HAMILTON,  
Chief Clerk.

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APPENDIX "A."

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## THE ENABLING ACT.

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**AN ACT, To Provide for the Division of Dakota into two States, and to Enable the People of North Dakota, South Dakota, Montana and Washington to Form Constitutions and State Governments, and to be Admitted into the Union on an Equal Footing with the Original States, and to make Donations of Public Lands to such States.**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of all that part of the area of the United States now constituting the territories of Dakota, Montana and Washington, as at present described, may become the states of North Dakota, South Dakota, Montana and Washington respectively, as hereinafter provided.*

**SEC. 2.** The area comprising the territory of Dakota shall, for the purposes of this act, be divided on the line of the seventh standard parallel produced due west to the western boundary of said territory; and the delegates elected as hereinafter provided to the constitutional convention in districts north of said parallel shall assemble in convention, at the time prescribed in this act, at the city of Bismarck; and the delegates elected in districts south of said parallel shall, at the same time, assemble in convention at the city of Sioux Falls.

**SEC. 3.** That all persons who are qualified by the laws of said territories to vote for representatives to the legislative assemblies thereof, are hereby authorized to vote for and choose delegates to form conventions in said proposed states; and the qualifications for delegates to such conventions shall be such as by the laws of said territories, respectively, persons are required to possess to be eligible to the legislative assemblies thereof; and the aforesaid delegates to form said conventions shall be apportioned within the

limits of the proposed states in such districts as may be established as herein provided, in proportion to the population in each of said counties and districts, as near as may be, to be ascertained at the time of making said apportionments by the persons hereinafter authorized to make the same, from the best information obtainable, in each of which districts three delegates shall be elected, but no elector shall vote for more than two persons for delegates to such conventions; that said apportionments shall be made by the governor, the chief justice and the secretary of said territories; and the governors of said territories shall, by proclamation, order an election of the delegates aforesaid in each of said proposed states, to be held on the Tuesday after the second Monday in May, 1889, which proclamation shall be issued on the 15th day of April, 1889; and such election shall be conducted, the returns made, the result ascertained and the certificates to persons elected to such convention issued in the same manner as is prescribed by the laws of the said territories regulating elections therein for delegates to congress; and the number of votes cast for delegates in each precinct shall also be returned. The number of delegates to said conventions respectively, shall be seventy-five; and all persons resident in said proposed states who are qualified voters of said territories as herein provided shall be entitled to vote upon the election of delegates, and under such rules and regulations as said conventions may prescribe not in conflict with this act, upon the ratification or rejection of the constitutions.

SEC. 4. That the delegates to the conventions elected as provided for in this act shall meet at the seat of government of each of said territories, except the delegates elected in South Dakota, who shall meet at the city of Sioux Falls, on the Fourth day of July, 1889, and, after organization, shall declare on behalf of the people of said proposed states that they adopt the constitution of the United States; whereupon the said conventions shall be, and are hereby authorized to form constitutions and state governments for said proposed states, respectively. The constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and not to be repugnant to the constitution of the United States and the principles of the declaration of independence. And said

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conventions shall provide by ordinances irrevocable without the consent of the United States and the people of said states:

First. That perfect toleration of religious sentiment shall be secured, and that no inhabitant of said states shall ever be molested in person or property on account of his or her mode of religious worship.

Second. That the people inhabiting said proposed states do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes; and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States; that the lands belonging to citizens of the United States residing without the said states shall never be taxed at a higher rate than the lands belonging to residents thereof; that no taxes shall be imposed by the states on lands or property therein belonging to or which may hereafter be purchased by the United States or reserved for its use. But nothing herein, or in the ordinances herein provided for, shall preclude the said states from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of congress containing a provision exempting the lands thus granted from taxation; but said ordinances shall provide that all such lands shall be exempt from taxation by said states so long and to such extent as such act of congress may prescribe.

Third. That the debts and liabilities of said territories shall be assumed and paid by said states respectively.

Fourth. That provision shall be made for the establishment and maintenance of systems of public schools, which shall be open to all children of said states, and free from sectarian control.

SEC. 5. That the convention which shall assemble at Bismarck shall form a constitution and state government for a state to be known as North Dakota, and the convention which shall assemble

at Sioux Falls shall form a constitution and state government for a state to be known as South Dakota; provided, that at the election for delegates to the constitutional convention in South Dakota, as hereinbefore provided, each elector may have written or printed on his ballot, the words, "For the Sioux Falls Constitution," or the words, "Against the Sioux Falls Constitution," and the votes on this question shall be returned and canvassed in the same manner as for the election provided for in section three of this act; and if a majority of all votes cast on this question shall be "For the Sioux Falls Constitution" it shall be the duty of the convention which may assemble at Sioux Falls, as herein provided, to resubmit to the people of South Dakota, for ratification or rejection at the election hereinafter provided for in this act, the constitution framed at Sioux Falls, and adopted November 3, 1885, and also the articles and propositions separately submitted at that election, including the question of locating the temporary seat of government, with such changes only as relate to the name and boundary of the proposed state, to the reapportionment of the judicial and legislative districts, and such amendments as may be necessary in order to comply with the provisions of this act; and if a majority of the votes cast on the ratification or rejection of the constitution shall be for the constitution irrespective of the articles separately submitted, the state of South Dakota shall be admitted as a state in the Union under said constitution as hereinafter provided, but the archives, records and books of the territory of Dakota shall remain at Bismarck, the capital of North Dakota, until an agreement in reference thereto is reached by said states. But if at the election for delegates to the constitutional convention in South Dakota a majority of all the votes cast at that election shall be "against the Sioux Falls constitution," then, and in that event, it shall be the duty of the convention which will assemble at the city of Sioux Falls on the fourth day of July, 1889, to proceed to form a constitution and state government as provided in this act the same as if that question had not been submitted to a vote of the people of South Dakota.

SEC. 6. It shall be the duty of the constitutional conventions of North Dakota and South Dakota to appoint a joint commission, to be composed of not less than three members of each conven-

tion, whose duty it shall be to assemble at Bismarck, the present seat of government of said territory, and agree upon an equitable division of all property belonging to the territory of Dakota, the disposition of all public records and also adjust and agree upon the amount of the debts and liabilities of the territory, which shall be assumed and paid by each of the proposed states of North Dakota and South Dakota; and the agreement reached respecting the territorial debts and liabilities shall be incorporated in the respective constitutions, and each of said states shall obligate itself to pay its proportion of such debts and liabilities the same as if they had been created by such states respectively.

SEC. 7. If the constitutions formed for both North Dakota and South Dakota shall be rejected by the people at the elections for the ratification or rejection of their respective constitutions as provided for in this act, the territorial government of Dakota shall continue in existence the same as if this act had not been passed. But if the constitution formed for either North Dakota or South Dakota shall be rejected by the people, that part of the territory so rejecting its proposed constitution shall continue under the territorial government of the present territory of Dakota, but shall, after the state adopting its constitution is admitted into the Union, be called by the name of the territory of North Dakota or South Dakota, as the case may be; provided, that if either of the proposed states provided for in this act shall reject the constitution which may be submitted for ratification or rejection at the election provided therefor, the governor of the territory in which such proposed constitution was rejected shall issue his proclamation reconvening the delegates elected to the convention which formed such rejected constitution, fixing the time and place at which said delegates shall assemble; and when so assembled they shall proceed to form another constitution or to amend the rejected constitution, and shall submit such new constitution or amended constitution to the people of the proposed state for ratification or rejection, at such time as said convention may determine; and all the provisions of this act, so far as applicable, shall apply to such convention so reassembled and to the constitution which may be formed, its ratification or rejection, and to the admission of the proposed state.

SEC. 8. That the constitutional convention which may assemble in South Dakota shall provide by ordinance for resubmitting the Sioux Falls constitution of 1885, after having amended the same as provided in section 5 of this act, to the people of South Dakota for ratification or rejection at an election to be held therein on the first Tuesday in October, 1889; but if said constitutional convention is authorized and required to form a new constitution for South Dakota it shall provide for submitting the same in like manner to the people of South Dakota for ratification or rejection at an election to be held in said proposed state on the said first Tuesday in October. And the constitutional conventions which may assemble in North Dakota, Montana and Washington, shall provide in like manner for submitting the constitutions formed by them to the people of said proposed states respectively, for ratification or rejection, at elections to be held in said proposed states on the said first Tuesday in October. At the elections provided for in this section the qualified voters of said proposed states shall vote directly for or against the proposed constitutions, and for or against any articles or propositions separately submitted. The returns of said elections shall be made to the secretary of each of said territories, who, with the governor and chief justice thereof, or any two of them, shall canvass the same; and if a majority of the legal votes cast shall be for the constitution, the governor shall certify the result to the president of the United States, together with a statement of the votes cast thereon and upon separate articles or propositions, and a copy of said constitution, articles, propositions and ordinances. And if the constitutions and governments of said proposed states are republican in form, and if all the provisions of this act have been complied with in the formation thereof, it shall be the duty of the president of the United States to issue his proclamation announcing the result of the election in each, and thereupon the proposed states which have adopted constitutions and formed state governments, as herein provided, shall be deemed admitted by congress into the Union, under and by virtue of this act, on an equal footing with the original states from and after the date of said proclamation.

SEC. 9. That until the next general census, or until otherwise

provided by law, said states shall be entitled to one representative in the house of representatives of the United States, except South Dakota which shall be entitled to two; and the representatives to the Fifty-first congress, together with the governors and other officers provided for in said constitutions, may be elected on the same day of the election for the ratification or rejection of the constitutions; and until said state officers are elected and qualified under the provisions of each constitution and the states, respectively, are admitted into the union, the territorial officers shall continue to discharge the duties of their respective offices in each of said territories.

SEC. 10 That upon the admission of each of said states into the union sections numbered 16 and 36 in every township of said proposed states, and where such sections or any part thereof have been sold or otherwise disposed of by or under the authority of any act of congress, other lands equivalent thereto, in legal subdivisions of not less than one-quarter section, and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said states for the support of common schools, such indemnity lands to be selected within said states in such manner as the legislature may provide, with the approval of the secretary of the interior; provided, that the sixteenth and thirty-sixth sections embraced in permanent reservations for national purposes shall not, at any time, be subject to the grants nor to the indemnity provisions of this act, nor shall any lands embraced in Indian, military or other reservations of any character, be subject to the grants or to the indemnity provisions of this act until the reservation shall have been extinguished and such lands be restored to and become a part of the public domain.

SEC. 11. That all lands herein granted for educational purposes shall be disposed of only at public sale, and at a price not less than \$10 per acre, the proceeds to constitute a permanent school fund, the interest of which only shall be expended in the support of said schools. But said lands may, under such regulation as the legislature shall prescribe, be leased for periods of not more than five years, in quantities not exceeding one section to any one person or company; and such land shall not be subject to pre-emption, homestead entry, or any other entry under the land



laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

SEC. 12. That upon the admission of each of said states into the union, in accordance with the provision of this act, fifty sections of the unappropriated public lands within said states, to be selected and located in legal subdivisions as provided in section ten of this act, shall be, and are hereby, granted to said states for the purpose of erecting public buildings at the capital of said states for legislative, executive and judicial purposes.

SEC. 13. That five per centum of the proceeds of the sales of public lands lying within said states which shall be sold by the United States subsequent to the admission of said states into the union, after deducting all the expenses incident to the same, shall be paid to the said states, to be used as a permanent fund, the interest of which only shall be expended for the support of common schools within said states, respectively.

SEC. 14. That the lands granted to the territories of Dakota and Montana by the act of February 18, 1881, entitled "An act to grant lands to Dakota, Montana, Arizona, Idaho and Wyoming for university purposes," are hereby vested in the states of South Dakota, North Dakota and Montana, respectively, if such states are admitted into the union as provided in this act, to the extent of the full quantity of seventy-two sections to each of said states, and any portion of said lands that may not have been selected by either of said territories of Dakota or Montana may be selected by the respective states aforesaid; but said act of February 18, 1881, shall be so amended as to provide that none of said lands shall be sold for less than \$10 per acre, and the proceeds shall constitute a permanent fund to be safely invested and held by said states severally, and the income thereof be used exclusively for university purposes. And such quantity of the lands authorized by the fourth section of the act of July 17, 1854, to be reserved for university purposes in the territory of Washington, as, together with the land confirmed to the vendees of the territory by the act of March 14, 1864, will make the full quantity of seventy-two entire sections, are hereby granted in like manner to the state of Washington for the purposes of a university in said state. None of the lands granted in this section shall be sold at less than \$10 per

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acre; but said lands may be leased in the same manner as provided in section eleven of this act. The schools, colleges and universities provided for in this act shall forever remain under the exclusive control of the said states, respectively, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes shall be used for the support of any sectarian or denominational school, college or university. The section of land granted by the act of June 16, 1880, to the territory of Dakota, for an asylum for the insane shall, upon the admission of said state of South Dakota into the union, become the property of said state.

SEC. 15. That so much of the lands belonging to the United States as have been acquired and set apart for the purpose mentioned in "An act appropriating money for the erection of a penitentiary in the territory of Dakota," approved March 2, 1881, together with the buildings thereon, be, and the same is hereby granted, together with any unexpended balances of the moneys appropriated therefor by said act, to said state of South Dakota, for the purposes therein designated, and the states of North Dakota and Washington shall, respectively, have like grants for the same purposes, and subject to like terms and conditions as provided in said act of March 2, 1881, for the territory of Dakota. The penitentiary at Deer Lodge City, Mont., and all lands connected therewith and set apart and reserved therefor, are hereby granted to the state of Montana.

SEC. 16. That 90,000 acres of land to be selected and located as provided in section ten of this act, are hereby granted to each of said states except to the state of South Dakota, to which 120,000 acres are granted for the use and support of agricultural colleges in said states, as provided in the acts of congress making donations of lands for such purposes.

SEC. 17. That in lieu of the grant of land for purposes of internal improvement made to new states by the eighth section of the act of September 4, 1841, which act is hereby repealed as to the states provided for by this act, and in lieu of any claim or demand by the said states, or either of them, under the act of September 28, 1850, and section 2479 of the Revised Statutes, making a grant of swamp and overflowed lands to certain states, which grant it is

hereby declared is not extended to the states provided for in this act, and in lieu of any grant of saline lands to said states, the following grants of land are hereby made, to-wit:

To the state of South Dakota: For the school of mines, 40,000 acres; for the reform school, 40,000 acres; for the deaf and dumb asylum, 40,000 acres; for the agricultural college, 40,000 acres; for the university, 40,000 acres; for state normal schools, 80,000 acres; for public buildings at the capital of said state, 50,000 acres, and for such other educational and charitable purposes as the legislature of said state may determine, 170,000 acres; in all, 500,000 acres.

To the state of North Dakota a like quantity of land as is in this section granted to the state of South Dakota, and to be for like purposes, and in like proportion as far as practicable.

To the state of Montana: For the establishment and maintenance of a school of mines, 100,000 acres; for the state normal schools, 100,000 acres; for agricultural colleges, in addition to the grant hereinbefore made for that purpose, 50,000 acres; for the establishment of a state reform school, 50,000 acres; for the establishment of a deaf and dumb asylum, 50,000 acres; for public buildings at the capital of the state, in addition to the grant hereinbefore made for that purpose, 150,000 acres.

To the state of Washington: For the establishment and maintenance of a scientific school, 100,000 acres; for state normal schools, 100,000 acres; for public buildings at the state capital in addition to the grant hereinbefore made for that purpose, 100,000 acres; for state, charitable, educational, penal and reformatory institutions, 200,000 acres.

That the states provided for in this act shall not be entitled to any further or other grants of land for any purpose than as expressly provided in this act. And the lands granted by this section shall be held, appropriated and disposed of exclusively for the purposes herein mentioned, in such manner as the legislatures of the respective states may severally provide.

SEC. 18. That all mineral lands shall be exempted from the grants made by this act. But if sections 16 and 36, of any subdivision or portion of any smallest subdivision thereof in any township shall be found by the department of the interior to be

mineral lands, said states are hereby authorized and empowered to select, in legal subdivisions, an equal quantity of other unappropriated lands in said states, in lieu thereof, for the use and benefit of the common schools of said states.

SEC. 19. That all lands granted in quantity or as indemnity by this act shall be selected, under the direction of the secretary of the interior, from the surveyed, unreserved and unappropriated public lands of the United States within the limits of the respective states entitled thereto. And there shall be deducted from the number of acres of land donated by this act for specific objects to said states the number of acres in each heretofore donated by congress to said territories for similar objects.

SEC. 20. That the sum of \$20,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the treasury not otherwise appropriated, to each of said territories for defraying the expenses of the said conventions, except to Dakota for which the sum of \$40,000 is so appropriated, \$20,000 each for South Dakota and North Dakota, and for the payment of the members thereof, under the same rules and regulations and at the same rates as are now provided by law for the payment of the territorial legislatures. Any money hereby appropriated not necessary for such purpose shall be covered into the treasury of the United States.

SEC. 21. That each of said states when admitted as aforesaid shall constitute one judicial district, the names thereof to be the same as the names of the states, respectively; and the circuit and district courts therefor shall be held at the capital of such state for the time being, and each of said districts shall, for judicial purposes, until otherwise provided, be attached to the Eighth judicial circuit, except Washington and Montana, which shall be attached to the Ninth judicial circuit. There shall be appointed for each of said districts one district judge, one United States attorney and one United States marshal. The judge of each of said districts shall receive a yearly salary of \$3,500, payable in four equal installments, on the first days of January, April, July and October of each year, and shall reside in the district. There shall be appointed clerks of said courts in each district, who shall keep their offices at the capital of said state. The regular terms of said courts

shall be held in each district, at the place aforesaid, on the first Monday in April and the first Monday in November of each year, and only one grand jury and one petit jury shall be summoned in both said circuit and district courts. The circuit and district courts for each of said districts and the judges thereof, respectively, shall possess the same powers and jurisdiction, and perform the same duties required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations. The marshal, district attorney and clerks of the circuit and district courts of each of said districts, and all other officers and persons performing duties in the administration of justice therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States; and shall, for the services they may perform, receive the fees and compensation allowed by law to other similar officers and persons performing similar duties in the state of Nebraska.

SEC. 22. That all cases of appeal or writ of error heretofore prosecuted and now pending in the supreme court of the United States upon any record from the supreme court of either of the territories mentioned in this act, or that may hereafter lawfully be prosecuted upon any record from either of said courts, may be heard and determined by said supreme court of the United States. And the mandate of execution or of further proceedings shall be directed by the supreme court of the United States to the circuit or district court hereby established within the state succeeding the territory from which such record is or may be pending, or to the supreme court of such state, as the nature of the case may require; provided, that the mandate of execution or of further proceedings shall, in cases arising in the territory of Dakota, be directed by the supreme court of the United States to the circuit or district court of the district of South Dakota, or to the supreme court of the state of South Dakota, or to the circuit or district court of the district of North Dakota, or to the supreme court of the state of North Dakota, or to the supreme court of the territory of North Dakota, as the nature of the case may require. And each of the circuit, district and state courts, herein named,

shall, respectively, be the successor of the supreme court of the territory, as to all such cases arising within the limits embraced within the jurisdiction of such courts respectively, with full power to proceed with the same, and award mesne or final process therein; and that from all judgments and decrees of the supreme court of either of the territories mentioned in this act, in any case arising within the limits of any of the proposed states prior to admission, the parties to such judgment shall have the same right to prosecute appeals and writs of error to the supreme court of the United States as they shall have had by law prior to the admission of said state into the Union.

SEC. 23. That in respect to all cases, proceedings and matters now pending in the supreme or district courts of either of the territories mentioned in this act at the time of the admission into the Union of either of the states mentioned in this act, and arising within the limits of any such state, whereof the circuit or district courts by this act established might have had jurisdiction under the laws of the United States had such courts existed at the time of the commencement of such cases, the said circuit and district courts, respectively, shall be the successors of said supreme and district courts of said territory; and in respect to all other cases, proceedings and matters pending in the supreme or district courts of any of the territories mentioned in this act at the time of the admission of such territory into the Union, arising within the limits of said proposed state, the courts established by such state shall, respectively be the successors of said supreme and district territorial courts; and all the files, records, indictments and proceedings relating to any such cases, shall be transferred to such circuit, district and state courts, respectively, and the same shall be proceeded with therein in due course of law; but no writ, action, indictment, cause or proceeding now pending, or that prior to the admission of any of the states mentioned in this act, shall be pending in any territorial court in any of the territories mentioned in this act shall abate by the admission of any such state into the Union, but the same shall be transferred and proceeded with the proper United States circuit, district or state court, as the case may be; provided, however, that in all civil actions, causes and proceedings, in which the United States is not a party, transfers

shall not be made to the circuit and district courts of the United States except upon the written request of one of the parties to such action or proceeding filed in the proper court; and in the absence of such request, such cases shall be proceeded with within the proper state courts.

SEC 24. That the constitutional conventions may, by ordinance, provide for the election of officers for full state governments, including members of the legislatures and representatives in the fifty-first congress; but said state governments shall remain in abeyance until the states shall be admitted into the Union, respectively, as provided in this act. In case the constitution of any of said proposed states shall be ratified by the people, but not otherwise, the legislature thereof may assemble, organize and elect two senators of the United States; and the governor and secretary of state of such proposed state shall certify the election of the senators and representatives in congress; and when such state is admitted into the Union, the senators and representatives shall be entitled to be admitted to seats in congress, and to all the rights and privileges of senators and representatives of other states in the congress of the United States; and the officers of the state governments formed in pursuance of said constitutions, as provided by the constitutional conventions, shall proceed to exercise all the functions of state officers; and all laws in force made by said territories, at the time of their admission into the Union, shall be in force in said states, except as modified or changed by this act, or by the constitutions of the states, respectively.

SEC. 25. That all acts or parts of acts in conflict with the provisions of this act, whether passed by the legislatures of said territories or by congress, are hereby repealed.

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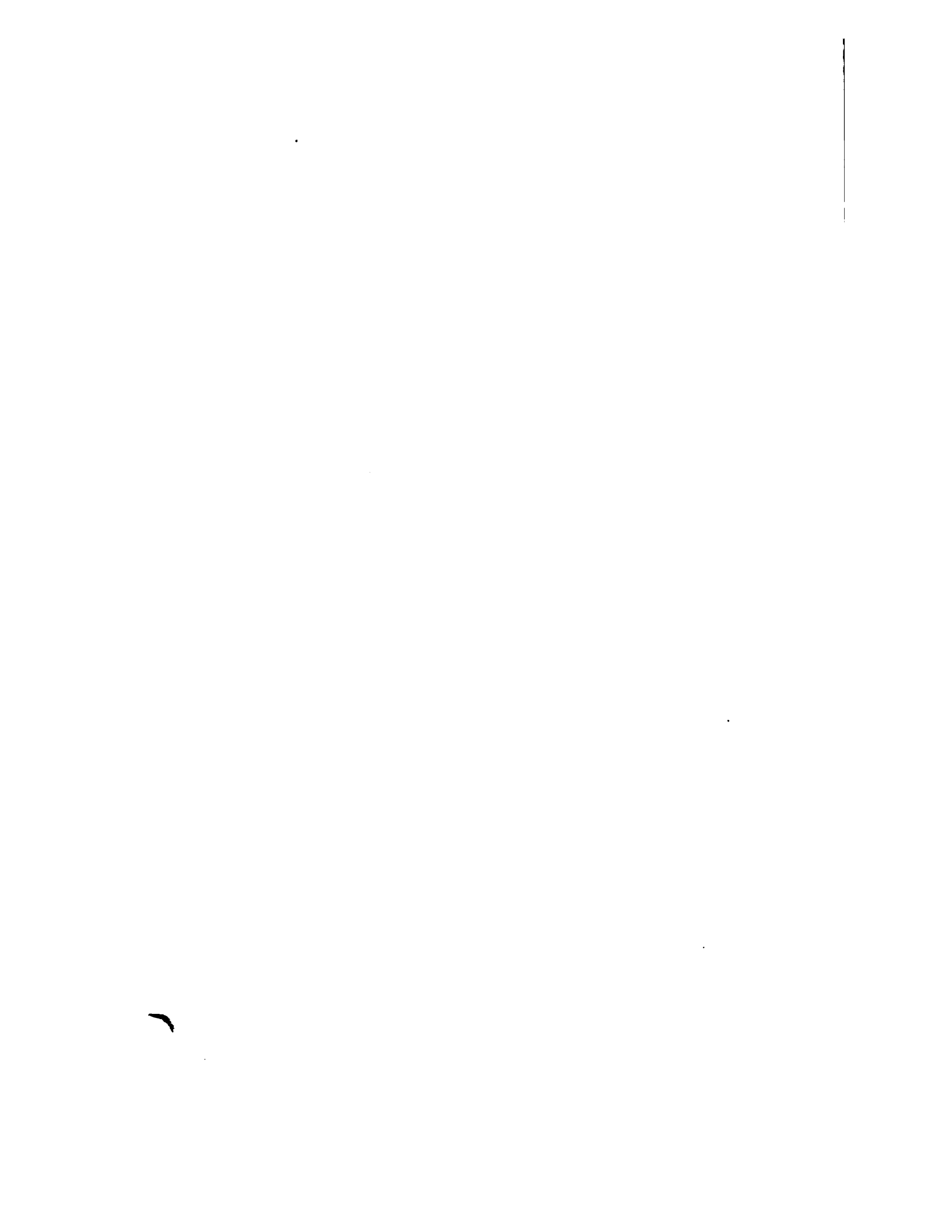
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APPENDIX "B."

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REPORT OF COMMITTEE ON

# Equitable Division of Territorial Property

AND INDEBTEDNESS.

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MR. PRESIDENT:

The Committee of the Constitutional Convention for North Dakota, appointed by said convention, under and by virtue of the provisions of section six of an act of congress approved February 22, 1889, entitled "An Act to Provide for the Division of Dakota into two States and to enable the people of North Dakota, South Dakota, Montana and Washington to Form Constitutions and State Governments, and to be admitted into the Union on an equal footing with the original States, and to make Donations of Public Lands to such States," report that they met with a like committee appointed by the Constitutional Convention for South Dakota and organized a Joint Commission as provided in said section six of said act; that the sessions of said commission were held at the city of Bismarck, Dakota, on and between the 16th and 31st days of July, A. D. 1889.

The journal of the proceedings of said Joint Commission, as corrected and approved, is hereto attached and made part of this report. Shorthand notes of the debates and proceedings of said commissions were also made by order thereof, but have not yet been transcribed.

The final agreement made by said commission respecting the property, debts and records of Dakota Territory is hereto attached and made part of this report.

The committee pursuant to an agreement of said commission, recommend the adoption of the following, as an article of the Constitution of North Dakota:

ARTICLE —

TERRITORIAL DEBTS AND LIABILITIES.

SECTION 1. In order that payment of the debts and liabilities contracted or incurred by and in behalf of the Territory of Dakota may be justly and equitably provided for and made, and in pursuance of the requirements of an act of Congress approved February 22, 1889, entitled "An Act to provide for the division of Dakota into two states and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments and to be admitted into the Union on an equal footing with the original states, and to make donations of public lands to such states," the states of North Dakota and South Dakota, by proceedings of a Joint Commission, duly appointed under said

act, the sessions whereof were held at Bismarck in said state of North Dakota, from July 16, 1889, to July 31, 1889, inclusive, have agreed to the following adjustment of the amounts of the debts and liabilities of the Territory of Dakota which shall be assumed and paid by each of the States of North Dakota and South Dakota, respectively, to-wit:

1. This agreement shall take effect and be in force from and after the admission into the Union, as one of the United States of America, of either the State of North Dakota or the State of South Dakota.

2. The words "State of North Dakota" wherever used in this agreement, shall be taken to mean the Territory of North Dakota in case the State of South Dakota shall be admitted into the Union prior to the admission into the Union of the State of North Dakota; and the words "State of South Dakota," wherever used in this agreement, shall be taken to mean the Territory of South Dakota in case the State of North Dakota shall be admitted into the Union prior to the admission into the Union of the State of South Dakota.

3. The said State of North Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of North Dakota, and shall pay all warrants issued under and by virtue of that certain act of the Legislative Assembly of the Territory of Dakota, approved March 8, 1889, entitled "An Act to provide for the refunding of outstanding warrants drawn on the Capitol Building fund."

4. The said State of South Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of South Dakota.

5. That is to say: The State of North Dakota shall assume and pay the following bonds and indebtedness, to-wit:

Bonds issued on account of the Hospital for Insane at Jamestown, North Dakota, the face aggregate of which is \$266,000; also, bonds issued on account of the North Dakota University at Grand Forks, North Dakota, the face aggregate of which is \$96,700; also, bonds issued on account of the Penitentiary at Bismarck, North Dakota, the face aggregate of which is \$93,600; also, refunding Capitol Building warrants dated April 1, 1889, \$83,507.46.

And the State of South Dakota shall assume and pay the following bonds and indebtedness, to-wit:

Bonds issued on account of the Hospital for the Insane at Yankton, South Dakota, the face aggregate of which is \$210,000; also, bonds issued on account of the School for Deaf Mutes, at Sioux Falls, South Dakota, the face aggregate of which is \$51,000; also, bonds issued on account of the University at Vermillion, South Dakota, the face aggregate of which is \$75,000; also, bonds issued on account of the Penitentiary at Sioux Falls, South Dakota, the face aggregate of which is \$94,300; also, bonds issued on account of the Agricultural College, at Brookings, South Dakota, the face aggregate of which is \$97,500; also, bonds issued on account of the Normal School at Madison, South Dakota, the face aggregate of which is \$49,400; also, bonds issued on account of the School of Mines at Rapid City, South Dakota, the face aggregate of which is \$33,000; also, bonds issued on account of the Reform School at Plankinton, South Dakota, the face aggregate of which is \$30,000; also, bonds issued on account of the Normal School at Spearfish, South Dakota, the face aggregate of which is \$25,000; also, bonds issued on account of the Soldiers' Home at Hot Springs, South Dakota, the face aggregate of which is \$45,000.

6. The States of North Dakota and South Dakota shall pay one-half each of all liabilities now existing or hereafter and prior to the taking effect of this agreement incurred, except those heretofore or hereafter incurred on account of public institutions, grounds or buildings, except as otherwise herein specifically provided.

7. The State of South Dakota shall pay to the State of North Dakota \$46,500, on account of the excess of Territorial appropriations for the permanent improvement of territorial institutions which under this agreement will go to South Dakota, and in full of the undivided one-half interest of North Dakota in the territorial library, and in full settlement of unbalanced accounts, and of all

claims against the territory, of whatever nature, legal or equitable, arising out of the alleged erroneous or unlawful taxation of Northern Pacific railroad lands, and the payment of said amount shall discharge and exempt the State of South Dakota from all liability for or on account of the several matters hereinbefore referred to; nor shall either State be called upon to pay or answer to any portion of liability hereafter arising or accruing on account of transactions heretofore had, which liability would be a liability of the territory of Dakota had such territory remained in existence, and which liability shall grow out of matters connected with any public institution, grounds or buildings of the territory situated or located within the boundaries of the other State.

8. A final adjustment of accounts shall be made upon the following basis: North Dakota shall be charged with all sums paid on account of the public institutions, grounds or buildings located within its boundaries on account of the current appropriations since March 8, 1889; and South Dakota shall be charged with all sums paid on account of public institutions, grounds or buildings located within its boundaries on the same account and during the same time. Each state shall be charged with one-half of all other expenses of the territorial government during the same time. All moneys paid into the treasury during the period from March 8, 1889, to the time of taking effect of this agreement by any county, municipality or person within the limits of the proposed State of North Dakota, shall be credited to the State of North Dakota; and all sums paid into said treasury within the same time by any county, municipality or person within the limits of the proposed State of South Dakota shall be credited to the State of South Dakota; except that any and all taxes on gross earnings paid into said treasury by railroad corporations, since the 8th day of March, 1889, based upon earnings of years prior to 1888, under and by virtue of the act of the Legislative Assembly of the Territory of Dakota, approved March 7, 1889, and entitled "An Act providing for the levy and collection of taxes upon property of railroad companies in this Territory," being Chapter 107 of the Session Laws of 1889 (that is, the part of such sum going to the Territory) shall be equally divided between the States of North Dakota and South Dakota; and all taxes heretofore or hereafter paid into the said treasury under and by virtue of the act last mentioned, based on the gross earnings of the year 1888, shall be distributed as already provided by law, except that so much thereof as goes to the territorial treasury shall be divided as follows: North Dakota shall have so much thereof as shall be or has been paid by railroads within the limits of the proposed State of North Dakota, and South Dakota so much thereof as shall be or has been paid by railroads within the limits of the proposed State of South Dakota; each state shall be credited also with all balances of appropriations made by the Seventeenth Legislative Assembly of the Territory of Dakota for the account of the public institutions, grounds or buildings situated within its limits, remaining unexpended on March 8, 1889. If there shall be any indebtedness except the indebtedness represented by the bonds and refunding warrants hereinbefore mentioned, each State shall at the time of such final adjustment of accounts, assume its share of said indebtedness as determined by the amount paid on account of the public institutions, grounds or buildings of such State in excess of the receipts from counties, municipalities, railroad corporations or persons within the limits of said State as provided in this article; and if there should be a surplus at the time of such final adjustment, each State shall be entitled to the amounts received from counties, municipalities, railroad corporations or persons within its limits over and above the amount charged it.

IN WITNESS WHEREOF, the members of said Joint Commission have subscribed their names hereto, this thirty-first day of July, A. D. 1889, at Bismarck, Dakota.

E. W. CAMP,  
BURLEIGH F. SPALDING,  
ALEX GRIGGS,  
ANDREW SANDAGER,  
W. E. PURCELL,  
HARVEY HARRIS,  
JOHN W. SCOTT,

A. G. KELLAM,  
V. T. MCGILLYCUDDY,  
HENRY NEILL,  
E. W. CALDWELL,  
W. ELLIOTT,  
CHARLES H. PRICE,  
S. F. BROTT.

SEC. 2. And the State of North Dakota hereby obligates itself to pay such part of the debts and liabilities of the Territory of Dakota as is declared by the foregoing agreement to be its proportion thereof, the same as if such proportion had been originally created by said State of North Dakota as its own debt or liability.

And your committee further, and pursuant to the agreement of of said Joint Commission, recommend the adoption as a part of the Schedule of the Constitution of North Dakota of an article in the form set forth in the said final agreement of said Joint Commission.

And your committee also recommed for adoption, as a part of the schedule of said Constitution, of the following: Should the counties containing lands which form a part of the grant of lands made by congress to the Northern Pacific Railroad company be compelled by law to refund moneys paid for such lands or any of them by purchasers thereof at tax sales thereof based upon taxes illegally levid upon said lands, then and in that case the State of North Dakota shall appropriate the sum of \$25,000, or so much thereof as may be necessary to reimburse said counties pro rata, for the amount so received from said illegal tax sales and paid by said counties into the treasury of Dakota Territory.

We further recommend that the shorthand notes of the proceedings of the said Joint Commission be transcribed and printed with the debates of the convention, inasmuch as, so far as the committee is informed, said Joint Commission is the first body of the kind ever convened.

Dated at Bismarck, August 2d, 1889, and respectfully submitted,

EDGAR W. CAMP.  
HARVY HARRIS,  
JOHN W. SCOTT,  
ANDREW SANDAGER,  
W. E. PURCELL,  
ALEX GRIGGS.

Burleigh F. Spalding absent on account of illness.

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## Journal of the Joint Commission.

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BISMARCK, July 16, 1889.

Meeting of the Joint Commission for Division of the property and Archives of Dakota Territory consisting of the following members:

North Dakota: E. W. Camp, Chairman; B. F. Spaulding, Alex. Griggs. Andrew Sandager, W. E. Purcell, Harvey Harris, J. W. Scott

South Dakota: A. G. Kellam, Chairman; V. T. McGillicuddy, Henry Neill, E. W. Caldwell, Wm. Elliott, C. H. Price, S. F. Brott.

Commission met at 3:30 p. m.

A. G. Kellam was chosen temporary chairman.

Andrew Sandager and V. T. McGillicuddy were chosen temporary secretaries.

The following resolution was introduced by Mr. Scott:

*Resolved*, That the chairmanship of the Joint Commission shall be held by the chairman of the North Dakota Commissions and South Dakota Commissions, being A. G. Kellam of the South Dakota Commission and E. W. Camp of the North Dakota Commission, alternating day by day.

Carried.

The following resolution was introduced by M. Caldwell:

*Resolved*, That upon the taking of a vote by the Joint Commission, the roll of the Commission shall be called by one of the clerks thereof, and if a majority of the members from North Dakota and a majority of the South Dakota members respectively shall record themselves as in the affirmative, the proposition thus voted upon shall be declared carried; otherwise not.

Carried.

The following resolution was introduced by Mr. Price:

*Resolved*, That no persons shall attend the meetings of the Joint Commission except the members thereof, clerks and stenographers, and such other persons as may be invited by a majority of either branch of the Joint Commission.

Lost.

The following resolution was introduced by Mr. Camp.

*Resolved*, That no persons save members of the Commission shall be permitted to make any statements as a witness before this Commission, save by the request of a majority of both committees of North and South Dakota.

Carried.

The following resolution was introduced by Mr. Camp:

*Resolved*, That any agreement hereafter arrived at by this Commission relative to the records of the Territory of Dakota shall be reported by the committees from North and South Dakota to their respective convention with the recommendation that the same be made a part of the schedule or ordinance to be submitted with the proposed constitution for ratification by the people of North and South Dakota respectively.

Mr. Price moved to make the above motion a special order upon which action shall be taken at next meeting.

Carried.

Adjourned to July 17, at 2:30 p. m.

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BISMARCK, July 17, 1889.

Commission met at 2:30 p. m., Mr. Camp in the chair.

Mr. Kellam moved that two assistant secretaries be selected to assist in the meetings during joint sessions.

Carried.

W. G. Hayden was nominated by the North Dakota Commission and L. M. McClaren by the South Dakota Commission and both were elected.

Under head of unfinished business, call was made for the resolution offered yesterday by Mr. Camp. A vote was called for and the resolution was lost by the following vote: South Dakota voted yeas 2; nays 5. North Dakota yeas 6; nays 1.

The following resolution was offered by Mr. Caldwell:

*Resolved*, That any agreement arrived at by the Joint Commission regarding disposition of the public records of the Territory, shall be communicated by the Representatives of North Dakota and South Dakota to their respective Conventions, to be by them communicated to the Legislatures of the two States for action in regard to such disposition.

Mr. Purcell moved that the resolution lay on the table.

Which motion prevailed.

Moved by Mr. Caldwell that the commission discuss informally the subject to come before it.

Which motion prevailed.

After general discussion of miscellaneous subjects the commission adjourned to meet at 3:30 p. m., July 18.

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BISMARCK, July 18, 1889.

Meeting called to order by Maj. Kellam.

All members present.

Mr. Caldwell made correction of statement he made to the commission the day previous, regarding the amount appropriated from the general fund, for construction, repairs and improvements of public institutions.

A statement was made by Mr. Purcell on the expenditures made to the public institutions from the General fund.

The following motion was introduced by Mr. Price:

*Resolved*, That the assistant clerks of the Joint Commission, be and they are hereby instructed to jointly prepare and present to said Commission at its next session a detailed statement of the amount of bonds issued for each public institution in the Territory; to report the amount of money appropriated out of the General fund for the betterment of each institution, and to also report any unexpended balances that there may be in favor of such public institutions.

Carried.

Commission adjourned to meet at 3 p. m.. July 19.

BISMARCK, July 19, 1889.

Meeting was called to order by Mr. Spalding.

Members all present except Mr. Camp.

The report asked for in resolution offered by Mr. Price, July 18th, to be prepared by the assistant secretaries, was submitted as follows:

NORTH DAKOTA.

	Bonds and Premiums.	Appropriations.	Total.	Less.		Net.
				Bonds.		
Jamestown Hospital...	\$266,545.60	\$23,150.00	\$289,695.00	\$6,376.30	\$290.81	\$283,025.49
Bismarck Penitentiary.	94,067.20	3,464.00	97,531.20	7,000.00	.....	90,531.20
Grand Forks University	75,016.71	18,400.00	93,416.71	930.99	504.84	91,980.88
Capitol .....	83,507.46	24,866.43	108,373.89	.....	.....	108,373.89
	<b>\$519,136.97</b>	<b>\$69,880.43</b>	<b>\$589,017.40</b>	<b>\$14,310.29</b>	<b>\$795.65</b>	<b>\$573,911.46</b>

Appropriations..... \$ 69,880.43

Unexpended Balances ..... 795.75

**\$ 69,084.78**

SOUTH DAKOTA.

	Bonds and Premiums.	Appropriations.	Total.	Unexpen'd Balance		Net Total.
				Bonds.	Appo'ns.	
Yankton Hospital .....	\$206,954.79	\$45,256.30	\$252,211.09	\$ 3,759.63	\$425.62	\$ 248,025.84
Reform School.....	30,156.00	.....	30,156.00	156.00	.....	30,000.00
School of Mines.....	33,320.00	5,500.00	38,820.00	176.91	572.30	38,070.79
Spearfish Normal.....	23,130.00	5,800.00	30,930.00	.....	.....	30,930.00
Madison Normal.....	49,763.00	5,500.00	55,263.00	536.55	.....	54,726.45
Agricultural College...	96,423.40	5,255.00	101,678.40	231.65	.....	103,446.75
Deaf Mute School.....	51,631.60	2,000.00	53,631.00	69.60	.....	53,562.00
University.....	75,156.00	18,500.00	93,656.00	.....	643.25	93,012.75
Penitentiary .....	96,475.05	5,000.00	101,475.05	.....	.....	101,475.05
	<b>\$687,009.84</b>	<b>\$92,811.30</b>	<b>\$759,821.14</b>	<b>\$ 4,980.34</b>	<b>\$ 1,641.17</b>	<b>\$758,249.63</b>



Appropriations.....	\$ 92,811.30
Appropriations—Unexpended Balance .....	1,641.17
	<u>\$91,170.13</u>
North Dakota.....	69,064.78
	<u>\$22,085.35</u>

Mr. Purcell referred to the Commission the matter of uncollected taxes on Northern Pacific railroad lands.

The following resolution was introduced by Mr. Caldwell:

*Resolved*, That in the division of the Territorial institutions and the property pertaining thereto, the following basis shall be adopted by this Commission:

The title to any public institution together with all thereto belonging or appertaining, shall vest in the particular State within which it may be located; and said State shall in consideration thereof assume all bonds, debts, liabilities and obligations whatsoever incurred by or for the Territory of Dakota on account of or in relation to said institution, and any unexpended balances of appropriations available or to become available for such institutions shall accrue and be credited to such institutions upon the books of their respective States.

Mr. Price moved the adoption of the resolution.

Which motion was lost.

Adjourned to meet at 10 a. m., July 20.

BISMARCK, July 20.

Meeting was called to order with Mr. Kellam in the chair.

All members present except Messrs. Camp, Griggs and Spaulding.

The commission discussed informally the question of unadjusted claims and the question of transcribing the records.

Mr. Niell offered the following resolution:

*Resolved*, That disposition of the public records of the Territory of Dakota be made with a view to starting out the two new states in public business.

Mr. Price offered the following as a substitute:

*Resolved*, That it is the sense of this Joint Commission that the commission should make disposition of the records, archives and books of the territory as provided in section 6 of the Enabling Act; that they determine what records each of the new states should have and when a final disposition thereof is agreed upon an agreement shall be drawn and incorporated in the schedule and ordinance of the constitution of the State of North Dakota and South Dakota and submitted to the people for ratification or rejection.

Before a vote was taken on either original or substitute, Mr. Elliott moved that the chair appoint a committee of three to prepare a resolution covering this subject to be presented to the commission at the next meeting.

Which motion prevailed, and the chair appointed Messrs. Kellam, Scott, and Spaulding.

On motion the commission adjourned to meet Monday, July 22.

BISMARCK, July 22.

The commission met at 10 a. m.

No quorum present.

Absent, Messrs. Camp, Spalding, Griggs and Scott.

AFTERNOON SESSION.

The commission met with Mr. Camp in the chair.

Members all present except Mr. Griggs.

The special committee made the following report:

*Resolved*, That it is the sense of this Joint Commission that in execution of the duty imposed upon it by the act of congress under which it was created relating to disposition of the public records of the territory, it shall provide for copies of such records as will in its judgment be required and necessary for the proposed States of North Dakota and South Dakota to inaugurate and continue such States respectively in their several departments. And that an agreement be made by this commission as to the disposition of both original and copies. And that such agreement shall be reported to the committees from North Dakota and South Dakota to their respective Conventions with the recommendations that the same be made a part of the schedule and ordinance to be submitted with the proposed Constitutions for ratification by the people of North Dakota and South Dakota respectively.

Which report was adopted.

By Mr. Price.

*Resolved*, That a committee of two, one from each commission be appointed to examine and report to the Joint Commission what books and records it will be necessary to transcribe and to also report the probable expense of the same.

Which motion was carried, and

Messrs. Caldwell and Harris were appointed as such committee.

*Resolved*, That we now proceed to determine as to who shall have the copies of the public records and who the originals upon its being ascertained what records must necessarily be copied.

On motion the resolution was laid over until action of the committee was received.

Moved by Mr. Kellam that a committee be appointed to examine and report upon the condition of the public library and public documents contained therein; and also to report an estimate of its value.

Which motion prevailed and Messrs. Kellam and Scott were appointed as such committee.

Mr. Harris moved that a committee of two be appointed to ascertain and report the amount of military property belonging to the territory, and its whereabouts.

Which motion prevailed and Messrs. Sandager and McGillycuddy were appointed such committee.

Mr. Kellam moved that a committee of two be appointed to report on the condition and value of any other property not specified in the preceding resolutions.

Which motion was carried and Messrs. Camp and Neill were appointed such committee.

Moved by Mr. Caldwell that a committee of two be appointed for the purpose of collecting information and classifying the same

relative to claims against the territory, and also of accounts due the territory.

Which motion prevailed and Messrs. Price and Spalding were appointed as such committee.

Moved by Mr. Scott that a committee of two be appointed to ascertain what amount has been appropriated by the Federal Government to the Brookings Agricultural College and Experimental Station, and what portion of such has been used for permanent improvements.

Which motion prevailed and Messrs. Purcell and Elliott were appointed such committee.

Adjourned to 10 a. m., July 23.

BISMARCK, July 23.

The committees not having completed their respective reports no business was transacted, and the commission.

Adjourned to meet July 24.

BISMARCK, July 24.

The commission was called to order with Mr. Kellam in the chair.

All members present except Griggs and Spaulding.

The Committee on Records reported. The report was read and after discussion it was referred back with instructions to report the classification, stating what records it would be necessary to copy and what records and papers could be divided without copying.

The Committee on Miscellaneous Property submitted the following report:

BISMARCK, D. T., July 23, 1889.

JOINT COMMISSION. GENTLEMEN.

Your committee to whom was referred the matter of listing the property belonging to the various territorial offices beg leave to make the following report:

Public Examiner, North Dakota . . . . .	\$ 16.50
Territorial Veterinarian, as per statement . . . . .	10.00
Railroad Commissioners, Watertown, South Dakota . . . . .	45.00
Board of Health, South Dakota . . . . .	....
Board of Agriculture, North Dakota . . . . .	....
Board of Agriculture, South Dakota . . . . .	....
Adjutant General, as per statement, South Dakota . . . . .	95.00
Commissioner of Immigration, South Dakota . . . . .	175.00
Railroad Commission, South Dakota . . . . .	150.00
Desks, third floor Capital, old . . . . .	50.00
Treasurer's office safe . . . . .	500.00
Treasurer's office scales, measurers, etc . . . . .	300.00
Auditor's office type writer and caligraph . . . . .	110.00
Secretary's office type writer, desk and safe . . . . .	130.00

Board of Pharmacy, South Dakota.....	\$ 14.00
Superintendent of Education, North Dakota.....	187.00
Secretary of Education.....	125.00
South Dakota Fair as per statement.....	60.00
	\$ 1,967.50

Respectfully submitted,

HENRY NEILL, }  
E. W. CAMP. } Committee.

Which report was adopted.

The Committee on Public Library made a verbal report recommending that each section of the Joint Commission submit sealed proposals for the library, and the section bidding the highest be entitled to the same.

Which report was adopted.

The Committee on Militia Property reported progress and asked time for further consideration.

Which request was granted.

The Committee on Claims and Accounts due the Territory reported that they could find no record of claims on file against the territory, and on motion was granted further time for consideration.

The Committee on Federal Appropriations to the Agricultural College and Experimental Station made a verbal report, and on motion were granted further time to prepare a written report.

Mr. Scott moved that the members of the commission from North Dakota, and the members of the commission from South Dakota each make a proposition in writing for a settlement of all matters except the public records.

Which motion prevailed.

Commission adjourned until 10 a. m., July 25.

BISMARCK, July 25.

Commission met with Mr. Camp in the chair.

Members all present expect Mr. Spalding.

The following propositions were presented and read:

PROPOSITION OF SOUTH DAKOTA COMMITTEE.

PUBLIC INSTITUTIONS.

Each state shall take the institutions located within its boundaries, with its appurtenances, furniture, etc., and shall assume the payment of all indebtedness against the territory, on account of each institution, respectively. That any unexpended balances, either from bonds or direct appropriations, remaining in the territorial treasury at the date of dissolution of the territorial government, shall follow the institution on whose account such bonds were issued or appropriation made, and go to the state which takes such institution.

MISCELLANEOUS PROPERTY.

All other items and articles of personal property, except the Territorial Library and records, shall be divided equally between North and South Dakota.

## TERRITORIAL LIBRARY.

Each Commission shall submit a sealed proposition stating a sum certain at which it is willing to take said library, including such books, records and volumes as may be added thereto up to the time of the dissolution of the territorial government, and the library as aforesaid shall go to the section whose bid as above provided, is the highest, and at the amount so bid, and such sum shall be accounted for in the settlement to be made by the Joint Commission.

(This disposition shall also include library in the Auditor's office.)

An arrangement shall be made by this Commission with the Territorial Auditor by which he shall keep and abstract the assessment returns from the several counties of the Territory in two classes or groups, putting and keeping the counties of North Dakota in one class, and the counties of South Dakota in another class, and such distinction and separation shall be maintained and preserved through the Auditor's and Treasurer's office, to the end that all taxes paid into the Territorial Treasurer, from such assessment, by the counties of North Dakota and South Dakota respectively, shall be kept separate and distinct from each other. Any and all claims of the Territory against counties on account of delinquent taxes, shall go to, and belong to the State within which such counties shall be located, and all credits for taxes overpaid by counties shall likewise go to the State within which such counties may be situated. Any balance of cash remaining on hand at the termination of the territorial government, and not otherwise covered by this proposition, or appropriated by law, shall be equally divided between North and South Dakota.

## PROPOSITION OF NORTH DAKOTA.

## TO THE JOINT COMMISSION:

The Committee from North Dakota makes the Joint Commission the following proposition: All the public institutions and buildings located in South Dakota which State shall assume and pay all bonded indebtedness arising out of and issued for their construction, and the same as to North Dakota, except the Capitol at Bismarck. All personal property and miscellaneous effects now in South Dakota, except militia outfits and accoutrements, shall be the property of South Dakota; and all of the same in North Dakota, except the militia outfits and accoutrements, and also excepting the furniture and fixtures of the Capitol at Bismarck, shall be the property of North Dakota. The State of South Dakota shall pay to the State of North Dakota, as a full settlement of unbalanced accounts and of all claims against the Territory arising out of the unlawful taxation of the Northern Pacific railroad lands, which claims shall be assumed by the State of North Dakota, the sum of \$60,000. Should South Dakota desire the State of North Dakota to assume the ownership and control of the Capitol at Bismarck with its furniture and fixtures, including all claims against the Territory arising out of the acceptance of the grant of lands made to the Territory for Capitol purposes, and further to assume its bonded indebtedness, the State of North Dakota will do so upon the payment by South Dakota to North Dakota of the sum of \$40,000. All other unascertained and unliquidated debts of the Territory of Dakota, shall when proved, be borne equally by the States of North Dakota and South Dakota. And all claims in favor of the Territory shall accrue to the benefit of the respective States in like proportion. The State of North Dakota shall be entitled to all delinquent taxes due the Territory at this date from counties located in North Dakota and the same to South Dakota. From and after March 11, 1889, the State of South Dakota shall be credited with all taxes collected from counties within its boundaries and charged with all moneys paid out by the Territory for appropriations made to the public institutions situated therein, and one half of all other expenditures. And the same as to North Dakota.

Moved that copies of each proposition be furnished each member of the Joint Commission.

The commission then took a recess until 3.30 in the afternoon.

## AFTERNOON SESSION.

Members all present, with Mr. Camp in the chair.

The time was employed in the discussion of the respective propositions.

Convention adjourned until 9.30 a. m., July 26th.

## BISMARCK, July 26.

Commission was called to order with Major Kellam in the chair.

Members were all present except Messrs. Spalding and Sandager.

Moved by Mr. Caldwell that the chairman of the respective commissions be requested to confer and report a plan of settlement.

Which motion prevailed.

At the afternoon session Messrs. Kellam and Camp were instructed to prepare in writing a basis for settlement of all matters to come before the commission except the public records.

Adjourned to 9.30 a. m., July 27.

## BISMARCK, July 27th.

Commission was called to order with Mr. Camp in the chair.

Mr. Griggs presented proxy for Mr. Purcell.

All members were present except Messrs. Sandager and Spalding.

Messrs. Kellam and Camp of special committee presented the following report.

## GENERAL PLAN OF AGREEMENT PROPOSED AND RECOMMENDED.

## PUBLIC INSTITUTIONS.

Each State shall take the public institutions located within its boundaries, with all appurtenances, furniture, etc. And shall assume the payment of all indebtedness against the territory, bonded or funded, on account of such institutions respectively.

All other items of personal property and miscellaneous effects belonging to the territory, except the territorial library, and the territorial records and archives, shall be divided as nearly equally as possible between North and South Dakota. The State of South Dakota shall pay to the State of North Dakota \$42,500, on account of excess of territorial appropriations for the permanent improvement of territorial institutions which under this agreement will go to South Dakota, and in full settlement of unbalanced accounts, and of all claims against the territory, of whatever nature, legal or equitable, arising out of the alleged erroneous or unlawful taxation of Northern Pacific Railroad lands, and the payment of said amount shall discharge and exempt the State of South Dakota from all liability for or on account of the several matters hereinbefore referred to, nor shall either State be called upon to pay or answer to any portion of any liability hereafter arising or accruing on account of transaction heretofore had, which liability would be a liability of the Territory of Dakota had such territory remained in existence, and which liability shall go out of matters connected with any public institutions of the territory situated or located within the boundaries of the other State.

Neither State shall pay any portion of any liability of the territory arising out of erroneous taxation of property in the other State.

Each committee shall make a sealed statement of the amount it is willing to pay for the undivided half of the public library, and the one offering the larger sum shall take the library at the sum so offered.

If on investigation it appears that the militia property is divided between North and South Dakota companies in proportion nearly equal, then the property is to remain within that State within the limits of which it now is; otherwise it is to be divided as nearly equally as possible. The final adjustment of accounts shall be made upon the following basis: North Dakota shall be charged with all sums paid to the public institutions located within the boundaries on account of the current appropriations since the same became available; and South Dakota charged with all sums paid to public institutions located within its boundaries on the same account and during the same time. Each State to be charged with one-half of the general expenses during the same time. That all moneys paid into the treasury during this period from about March 11, to the time of final adjustment, from North Dakota shall be credited to North Dakota, and all such sums paid from South Dakota for the same time shall be credited to South Dakota, except that all railroad taxes paid into the territorial treasury since date above mentioned for years prior to 1889 (that is, the part thereof going to the territory) shall be equally divided between North and South Dakota, and the railroad tax for 1889 shall be distributed as already provided by law, except that so much of said tax as goes to the territorial treasury shall be divided as follows: North Dakota shall have so much thereof as is paid by railroads in North Dakota and South Dakota so much thereof as is paid by railroads in South Dakota.

If there shall be an indebtedness at the time of the final division each shall assume its share as determined by the amount paid to each section in excess of the receipts from each section, and if there shall be a surplus at the time of such division, each shall be entitled to the amount it has paid in over and above the amounts it stands charged with.

The payment from South Dakota to North Dakota, or as much of it as possible shall be made by South Dakota assuming North Dakota's share of current liabilities at time of final adjustment, including North Dakota's share of cost of copying records.

It is further recommended that South Dakota and North Dakota pay one half each of all liabilities now existing, but not audited and allowed, except those incurred on account of public institutions.

Each State shall succeed to all rights of the territory upon contracts for public works within such State or bonds to secure the completion of such contracts. Each State shall receive all unexpended balances of the bonds which it is to pay whether such balances have been covered back into the treasury or not.

A. G. KELLAM,  
E. A. CAMP,  
Committee.

Mr. Elliott moved the adoption of the report.

After full discussion of the motion Mr. Griggs moved that the report be amended by inserting in lieu of \$42,500 the sum of \$50,000.

Which amendment was lost.

The original motion was then carried unanimously.

Mr. Price moved that the chairmen of the respective commissions be appointed a committee to draw up the final agreement in accordance with the proposition already adopted.

Which motion prevailed.

The Committee on Public Records presented the following report:

BISMARCK, July 24, 1889.

*To the Joint Commission of North and South Dakota:*

**GENTLEMEN:** Your sub-committee appointed to suggest an agreement for disposition of the archives, records and books of the territory, as provided in sections 5 and 6 of the Enabling Act, would respectively recommend.

**FIRST.** That certain records as herein indicated should be transcribed—the originals to be allotted to one of the States and the copies to the other, by such arrangement as may be arrived at by the commission.

**SECOND.** That such books, files, etcetera, as refer particularly to either section shall be allotted to that section where a division of said files is possible.

**THIRD.** That in case of files, correspondence, etc., which shall refer to the two sections in general, such files, correspondence, etc., shall be grouped in convenient lots and said groups to be selected from by the respective sections alternately, the first choice to be determined by lot.

**FOURTH.** That where transcription is recommended, the expense thereof shall be divided equally between the two sections.

**FIFTH.** The more particular details as to this agreement are given below.

#### RECORDS TO BE TRANSCRIBED.

##### SECRETARY'S OFFICE.

Two Volumes Railroad Deeds, Mortgages and Leases.  
Twenty-seven Volumes Foreign and Domestic Incorporation Records.  
Three National Commission Records.  
One General Executive Record.  
One Record of Appointment.  
One Record of Elections.

##### AUDITOR'S OFFICE.

Six Volumes Appropriation Records (Ledgers.)  
One Volume Executive Record.  
One Volume Insurance Record, 1889.  
Articles of Incorporation Domestic and Foreign Insurance Companies.

##### TREASURER'S OFFICE.

Three Cash Books.  
One Journal.  
Two Ledgers.  
Two old books—Journal and Cash book and Ledger.  
One Bond Register.

##### GOVERNOR'S OFFICE.

One Requisition Record.  
One Executive Record.

##### ADJUTANT GENERAL'S OFFICE.

Record Books.

##### SUPREME COURT RECORDS

Record Books.

#### TO BE DISTRIBUTED ACCORDING TO LOCALITY.

##### SECRETARY'S OFFICE.

Election Returns—Constitutional Conventions and Local Option.  
Application Bonds, Notarial Commissions.  
Enrolled Bills, Local, Application.  
Application for Pardons.  
Articles of Domestic Incorporation.  
Papers Relating to the Organization of Counties.



## AUDITOR'S OFFICE.

Vouchers of Local Application.  
One Bond Register, County Bonds, South Dakota.

## TREASURER'S OFFICE.

One Warrant Register, to go to North Dakota.  
Letters to be Divided by Counties, and Vouchers and Receipts the same.  
Bonds Coupons Paid.  
Railroad Report of Gross Earnings.  
Cancelled Bonds, South Dakota.

## PUBLIC EXAMINER.

Records to go to Sections where Located.

## BOARD OF AGRICULTURE.

Records.

## DENTAL EXAMINERS.

Records.

## BOARD OF PHARMACY.

Records.

## GOVERNOR'S OFFICE.

Census Returns.  
Requisition Papers.

## COMMISSIONER OF IMMIGRATION.

Nothing.

## TO BE DIVIDED BY LOT.

## SECRETARY'S OFFICE.

- No. 1. Correspondence, including letter files and letter books.
- No. 2. Bills introduced in Legislature to date. House and Council Journals and Bill Books.
- No. 3. Enrolled Bills of General Application.
- No. 4. Application and Affidavits of Foreign Loan and Building Associations.
- No. 5. Proclamations of Governors.
- No. 6. Oath of Office, Commissioner of Deeds.
- No. 7. Oaths and Bonds of Territorial Officials.
- No. 8. Articles, Foreign Incorporations.
- No. 9. Articles not specified.

## GOVERNOR'S OFFICE.

- No. 8½. Two Volumes Visitor's Registers.
- No. 9½. Official Correspondence, letter files and letter books.
- No. 10½. Lincoln Memorial.
- No. 11½. Articles not specified.

## AUDITOR'S OFFICE.

- No. 10. Warrant Register.
- No. 11. Warrant Stubs and Redeemed Warrants.
- No. 12. Vouchers other than those of local origin.
- No. 13. Six Volumes Insurance Records.
- No. 14. Letter Files and Letter Books.
- No. 15. Abstract of Assessment Roll (one copy is with Auditor and the other is with Treasurer).
- No. 16. Annual Statements and Correspondence with Insurance Companies.

## TREASURER'S OFFICE.

- No. 17. Two Warrant Registers with Auditor's Receipts.  
 No. 18. Five Letter Books.  
 No. 19. Stub Receipts given for Railroad and other funds paid in.

## ATTORNEY GENERAL'S OFFICE.

- No. 20. Letters and Papers.  
 No. 21. Commissioner of Immigration, Letters and Papers.

## VETERINARY SURGEON.

- No. 22. Letters and Papers.

## RAILROAD COMMISSIONERS.

- No. 22. Letters and Papers.

## BOARD OF HEALTH.

- No. 23. Letters and Papers.

## ADJUTANT GENERAL'S OFFICE.

- No. 24. Correspondence, Etcetera.

Respectfully submitted.

HARVEY HARRIS,  
 E. W. CALDWELL,  
 Committee.

Action on the report was postponed until Monday morning and was referred back to the committee with instructions to report as to what books are necessary to be copied.

The respective sections of the Joint Commission proceeded to prepare sealed bids for the Public Library which, when opened by the secretaries, were as follows:

The bid of South Dakota for the undivided half of the Territorial Library is \$4,000.

A. G. KELLAM,  
 Chairman.

The North Dakota Commission value the Public Library at \$1,500 and will pay South Dakota \$750 for her half interest.

EDGAR CAMP,  
 Chairman.

Commission adjourned to meet meet Monday, July 29.

—————  
 BISMARCK, July 29.

Commission was called to order by Mr. Camp.

The Committee on Final Agreement was not ready to report and the Commission adjourned to meet at 10 a. m., July 30.

—————  
 BISMARCK, July 30.

Commission met with Major Kellam in the chair.

All members were present.

The Committee on Records made the following report according to instructions of July 29:

BISMARCK, D. T., July 29, 1889.

GENTLEMEN OF THE JOINT COMMISSION: Your sub-committee to whom was referred the duty of making a list of such records in the several territorial offices as in their judgment were necessary for the respective states to have in their possession in order that the officers thereof could commence business, beg leave to report as follows:

In our judgment the records referred to are to be found in the offices of the Auditor and Treasurer.

In the Auditor's office there is the Current Appropriation Ledger, which contains not only the appropriations made by the last Legislature, but also the balances of previous appropriations, and it therefore shows the condition of every account up to date. There is also in said office a Warrant Register, in which the more recent warrants, covering a period of probably three years, have been entered in numerical sequence. This book may be said to be the Journal of the final transactions of the office and is the book of original entry. In addition to showing the number, date, payee and purpose of each warrant, it shows also its date of cancellation. In the insurance department of the Auditor's office there is a record showing the names and residences of agents appointed by the several companies in the different judicial districts of the territory, and as undoubtedly each state will be required to know who is authorized to represent any particular company, the transcription of this book would be necessary even though its application can cover only two months of statehood existence, as it expires December 31. From the same department your committee would also recommend that there be produced a list of insurance companies entitled to do business in the several judicial districts of the respective states. This information is nowhere collated in such form that transcription would supply the desired information. It is our judgment that copies of the volumes referred to above would enable the Auditor's office of either State to inaugurate business in its several departments.

In the Treasurer's office there are the following records which we would recommend should be transcribed: The ledger showing the receipts and expenditures of the several bond funds and the general funds of the territory. Also the ledger showing the charges against the several counties by reason of the assessments made upon property therein during recent years, and showing likewise the payments made by said counties upon such assessments. Also one cash book showing detailed receipts and expenditures during recent years. Also one general bond register, giving the purpose for which bonds have been issued, with their dates, denominations, etc.

Respectfully submitted,

HARVEY HARRIS,  
E. W. CALDWELL,  
Committee.

### The following proposition was submitted by Major Kellam:

This Commission shall agree upon a division of all records, files and books not already provided to be copied, in manner following, to-wit:

All records and files pertaining exclusively to institutions in South Dakota shall be the property of South Dakota, and all records and files pertaining exclusively to institutions in North Dakota shall be the property of North Dakota.

All other records, etc., not provided to be copied or divided as above shall be divided and grouped into two lots, as nearly of equal importance and value as possible, but so that the records of no office shall be divided by such grouping. Each State to have one of such two groups, to be determined by lot by this Commission.

All records shall remain at the Capitol of North Dakota. South Dakota may at any time take possession of such of the records and files as under this agreement become the property of South Dakota, giving North Dakota reasonable time to make copies or abstracts thereof.

If either State requires copies or abstracts of the records which under this agreement go to the other State, the expense thereof shall be borne equally by the two States.

It shall be determined by lot which State shall take the originals and which the copies of such records as are arranged by this Commission to be copied.

Mr. Caldwell moved that the books and records recommended in the report of the committee be copied.

Carried unanimously.

After discussion of the proposition presented by Major Kellam, the Commission adjourned to meet at 2 p. m.

AFTERNOON SESSION.

Major Kellam in the chair.

All members present.

The proposition submitted at the morning session by Mr. Kellum was reread and Mr. Caldwell moved that the plan proposed in the proposition be adopted.

Adopted.

Messrs. Griggs, Harris, Scott and Price voting no.

All others aye.

The committee on records reported that they had divided the books and records according to the plan proposed, into two lots, as follows:

First Lot, The books, records and papers in the Governor's and Secretary's office.

Lot Two, The books, records and papers of all other offices of the territory, as follows, to-wit: Auditor's office, Treasurer's office, Attorney General's office, Railroad Commissioners's office, Commissioner of Immigration, Superintendent of Public Instruction, Veterinary Surgeon's office, Adjutant General's office, Supreme Court records and Board of Health.

Mr. Elliott moved that the report be adopted.

Carried unanimously.

Moved by Mr. Caldwell that Mr. Hayden, one of the secretaries draw lots for first choice.

Carried unanimously.

The drawing resulted in first choice for North Dakota.

North Dakota Commission chose Lot No. 1, consisting of books, papers and records in the offices of Governor and Secretary.

On motion of Mr. Caldwell the matter of division of records, books and files as decided by the Commission, was referred to the committee appointed to prepare the articles of agreement to be incorporated therein.

The Committee on Military Property submitted a verbal report, presenting reports of the officers having charge of military supplies, giving the amount, location and estimated value of the same, and the committee stated that it appeared from said report that the supplies were very nearly equally distributed between North Dakota and South Dakota.

The committee recommend that the supplies already distributed to the militia remain at the present location and become the prop-

erty of the State in which said property is located, and further recommended that the property stored at the Capitol consisting of 944 50-calibre rifles, 80 45-calibre rifles, 35,000 rounds of 50-calibre ammunition, 35,000 rounds of 45-calibre ammunition, 12,000 rifle balls, one case (10) cadet rifles, be equally divided between the States of North Dakota and South Dakota.

The report was referred to the Committee on Final Agreement.

The articles of agreement so far as prepared were read and discussed. After some minor changes and recommendations the report was referred back to the committee for revision and final completion.

Mr. Camp moved that Mr. Caldwell and Mr. Purcell be appointed a committee to draft articles to be presented to the respective Conventions for insertion in the Constitution of the respective States.

Unanimously carried.

Adjourned to meet at 11 a. m., July 31.

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BISMARCK, July 31.

Mr. Camp in the chair.

Members all present.

Committee on Agreement read the additional articles prepared, which after a few verbal changes, were agreed upon.

The committee to prepare the articles for the Constitutions submitted a draft of their report, which after discussion, was referred back to them to be completed.

Mr. Kellam introduced the following resolution:

*Resolved*, That when this Joint Commission adjourns it adjourn to meet at the joint call of the chairman of the respective committees composing this Joint Commission; the time and place of such meeting to be determined by the said chairmen and announced in the call.

Adopted.

Adjourned to meet at 3.30 p. m.

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BISMARCK, July 31, 2.30 p. m.

Mr. Camp in the chair.

The members all present.

The final agreement as prepared by the Commission was submitted, as follows:

WHEREAS, By an act of Congress approved February 22, 1889, entitled "An Act to provide for the division of Dakota into two States, and to enable the people of North Dakota, South Dakota, Montana and Washington to form Constitutions and State governments and to be admitted into the Union on an equal footing with the original States, and to make donations of public lands to such States," it was among other things provided that when the Constitutional Convention for North Dakota and the Constitutional Convention for South Dakota, which by said act were duly provided for and authorized, should assemble and

organize as in said act provided, it should be and become the duty of said Conventions respectively to appoint a Joint Commission to be composed of not less than three members of each Convention, whose duty it should be to assemble at Bismarck the present seat of government of said Territory, and agree upon an equitable division of all property belonging to the Territory of Dakota, the disposition of all public records, and also, to adjust and agree upon the amount of the debts and liabilities of the Territory, which shall be assumed and paid by each of the proposed States of North Dakota and South Dakota; and

WHEREAS, The said Constitutional Conventions of North Dakota and South Dakota having been duly elected and assembled and organized in pursuance of and as provided in said act, did, as therein required and provided for the purposes therein specified, appoint a Joint Commission, consisting of not less than three members of each Convention, to-wit: Seven members of each Convention as follows, to-wit:

E. W. Camp, B. F. Spalding, Alex. Griggs, Andrew Sandager, W. E. Purcell, Harvey Harris and J. W. Scott appointed by the Convention of North Dakota; and A. G. Kellam, V. T. McGillicuddy, Henry Neill, E. W. Caldwell, William Elliott, Charles H. Price and S. F. Brott, appointed by the Convention of South Dakota, and

WHEREAS, The said Joint Commission so appointed and composed having duly assembled at Bismarck, as by said act provided, and being now and here so assembled, and having as such Joint Commission duly and carefully considered the several matters which by said act are referred to them for disposition and agreement, do now adopt and confirm the following agreement, compact and Convention, that is to say:

## I.

This agreement shall take effect and be in force from and after the admission into the Union as one of the United States of America, of either of the State of North Dakota or the State of South Dakota.

## II.

The words "State of North Dakota" wherever used in this agreement, shall be taken to mean the Territory of North Dakota in case the State of South Dakota shall be admitted into the Union prior to the admission into the Union of the State of North Dakota; and the words "State of South Dakota" wherever used in this agreement shall be taken to mean the Territory of South Dakota in case the State of North Dakota shall be admitted into the Union prior to the admission into the Union of the State of South Dakota.

## III.

Upon the taking effect of this agreement all the right, title, claim and interest of the Territory of Dakota in and to any public institutions, grounds or buildings situate within the limits of the proposed State of North Dakota as such limits are defined in said Act of Congress, shall vest in said State of North Dakota; and said State of North Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings, and shall pay all warrants issued under and by virtue of that certain act of the Legislative Assembly of the Territory of Dakota approved March 8, 1889, entitled "An Act to provide for the refunding of outstanding warrants drawn on the Capitol Building Fund."

## IV.

Upon the taking effect of this agreement, all right, title, claim and interest of the Territory of Dakota in and to any public institutions, grounds or buildings, situate within the limits of the proposed State of South Dakota as defined in said act of Congress, shall vest in said State of South Dakota. And said State of South Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings.

## V.

That is to say: The State of North Dakota shall assume and pay the following bonds and indebtedness, to-wit:

Bonds issued on account of the Hospital for Insane at Jamestown, North Dakota, the face aggregate of which is.....	\$266,000 00
Bonds issued on account of the North Dakota University at Grand Forks, North Dakota, the face aggregate of which is.....	96,700 00
Bonds issued on account of the Penitentiary at Bismarck, North Dakota, the face aggregate of which is.....	93,600 00
Refunding Capitol Building Warrants dated April 1, 1889.....	83,507 46

And the State of South Dakota shall assume and pay the following bonds and indebtedness, to-wit:

Bonds issued on account of the Hospital for the Insane at Yankton, South Dakota, the face aggregate of which is.....	\$ 210,000 00
Bonds issued on account of the School for Deaf Mutes at Sioux Falls, South Dakota, the face aggregate of which is.....	51,000 00
Bonds issued on account of the University at Vermillion, South Dakota, the face aggregate of which is.....	75,000 00
Bonds issued on account of the Penitentiary at Sioux Falls South Dakota, the face aggregate of which is.....	94,300 00
Bonds issued on account of the Agricultural College at Brookings, South Dakota, the face aggregate of which is.....	97,500 00
Bonds issued on account of the Normal School at Madison, South Dakota, the face aggregate of which is.....	49,400 00
Bonds issued on account of the School of Mines at Rapid City, South Dakota, the face aggregate of which is.....	33,000 00
Bonds issued on account of the Reform School at Plankinton, South Dakota, the face aggregate of which is.....	30,000 00
Bonds issued on account of the Normal School at Spearfish, South Dakota, the face value of which is.....	25,000 00
Bonds issued on account of the Soldiers' Home at Hot Springs, South Dakota, the face aggregate of which is.....	45,000 00

## VI.

Each State shall receive all unexpended balances of the proceeds of the bonds which it so assumes, whether such balances have been covered back into the treasury or not.

## VII.

All furniture, fixtures, provisions, appurtenances and appliances, tools, implements and other moveable property of the Territory of Dakota, situate in or used in connection with any of said public institutions, grounds or buildings, shall become and be the property of the State or Territory in which such grounds, buildings or institutions may be situated, except as herein otherwise specifically provided.

## VIII.

In case of loss in whole or part of any of the property of the Territory of Dakota prior to the taking effect of this agreement, the state in which such property would have vested if the same had not been destroyed, or in which such property so injured shall vest, shall receive any sums payable upon policies of insurance issued upon such property; and if loss not covered by insurance occurs on any of such property would vest on the taking effect of this agreement.

## IX.

Upon the taking effect of this agreement, all unearned premiums of insurance shall vest in the State or Territory in which the property insured thereby shall vest.

## X.

The States of North Lakota and South Dakota shall pay one-half each of all liability now existing or hereafter and prior to the taking effect of this agreement incurred, except those heretofore or hereafter incurred on account of public institutions, grounds, or buildings, except as otherwise herein specifically provided.

## XI.

Each of said States shall succeed to all rights of the Territory of Dakota upon contracts for public works within such State or upon bonds given to secure the performance of such contracts.

## XII.

All other bonds issued prior to the taking effect of this agreement upon which a cause of action has or shall prior to the taking effect of this agreement accrue to the Territory of Dakota shall be sued upon by the State of North Dakota, and it is hereby made the duty of the said State to sue thereon, and one-half of the penalties or damages collected by said state thereon shall be paid over to the other State, and the costs of such suit or collection shall be borne equally by said States, save as it may be necessary to apply such proceeds otherwise in order to carry into effect the provisions of Article XXI of this agreement.

## XIII.

The furniture, fixtures, appliances and appurtenances used in and about or pertaining to the public offices of the Territory shall be the property of the State within the proposed limits of which said offices are now kept.

## XIV.

The Territorial Library, including such books and volumes as may be added thereto prior to the taking effect of this agreement, shall be the property of the State of South Dakota.

## XV.

One-half of all the copies of the Compiled Laws of the Territory of Dakota, Revised Codes and of all Session Laws, printed Journals of the House and Council of the Legislative Assembly of said Territory, and of other printed reports of officers of the Territory (except those composing a part of said library), remaining undistributed or undisposed of according to law at the taking effect of this agreement, shall be delivered on demand to the proper authorities of the State of South Dakota.

## XVI.

All arms, ammunition, quartermaster's and ordnance stores distributed to and now in possession of militia companies of the Territory of Dakota shall remain in their possession, and all the right, title and interest of the Territory of Dakota in and to such arms, ammunition and stores shall vest in the State in which the armories or headquarters of such companies shall be situated. All 45-calibre rifles and ammunition of same calibre, stored in Capitol at Bismarck and all 45-calsbre rifles heretofore issued to Company "F" First Regiment at Bismarck, shall be the property of North Dakota.

## XVII.

All other arms, ammunition, quartermaster's and ordnance stores shall be equally divided between the States of South Dakota and North Dakota.

## XVIII.

All other items of personal property and miscellaneous effects belonging to the Territory, except the territorial library, and the territorial records and archives, shall be divided as nearly equally as possible between North and South Dakota.

## XIX.

The State of South Dakota shall pay to the State of North Dakota \$46,500, on account of the excess of territorial appropriations for the permanent improve-



ment of territorial institutions which under this agreement will go to South Dakota, and in full of the undivided one-half interest of North Dakota in the territorial library, and in full settlement of unbalanced accounts, and of all claims against the Territory, of whatever nature, legal or equitable, arising out of the alleged erroneous or unlawful taxation of Northern Pacific Railroad lands, and the payment of said amounts shall discharge and exempt the State of South Dakota from all liability for or on account of the several matters hereinbefore referred to, nor shall either State be called upon to pay or answer to any portion of liability hereafter arising or accruing on account of transactions heretofore had, which liability would be a liability of the Territory of Dakota had such territory remained in existence, and which liability shall grow out of matters connected with any public institution, grounds or buildings of the territory situate or located within the boundaries of the other State.

## XX.

Neither State shall pay any portion of liability of the Territory arising out of erroneous taxation of property situated in the other State.

## XXI.

A final adjustment of accounts shall be made upon the following basis: North Dakota shall be charged with all sums paid on account of the public institutions, grounds or buildings located within its boundaries on account of the current appropriations since March 8, 1889, and South Dakota shall be charged with all sums paid on account of public institutions, grounds or buildings located within its boundaries on the same account and during the same time. Each State shall be charged with one-half of all other expenses of the Territorial government during the same time. All moneys paid into the treasury during the period from March 8, 1889, to the time of taking effect of this agreement by any county, municipality or person within the limits of the proposed State of North Dakota shall be credited to North Dakota; and all such sums paid into said treasury within the same time by any county, municipality or person within the limits of the proposed State of South Dakota shall be credited to the State of South Dakota; except that any and all taxes on gross earnings paid into said treasury by railroad corporations since the 8th day of March, 1889, based upon the earnings of years prior to 1888, under and by virtue of the Act of the Legislative Assembly of the Territory of Dakota, approved March 7, 1889, and entitled "An Act providing for the levy and collection of taxes upon property of railroad companies in this Territory," being Chapter 107 of the Session Laws of 1889 (that is, the part of such sum going to the Territory), shall be equally divided between the States of North Dakota and South Dakota; and all taxes heretofore or hereafter paid into the treasury under and by virtue of the Act last mentioned, based on the gross earnings of the year 1888, shall be distributed as already provided by law, except that so much thereof as goes to the Territorial Treasury shall be divided as follows: North Dakota shall have so much thereof as shall be or has been paid by railroads within the limits of the proposed State of North Dakota, and South Dakota so much thereof as shall be or has been paid by railroads within the limits of the proposed State of South Dakota. Each State shall be credited, also, with all balances of appropriations made by the Seventeenth Legislative Assembly of the Territory of Dakota, for the account of the public institutions, grounds or buildings located within its limits remaining unexpended on March 8, 1889. If there shall be any indebtedness except the indebtedness represented by the bonds and refunding warrants hereinbefore mentioned, each State shall at the time of such final adjustment of accounts, assume its share of said indebtedness as determined by the amount paid on account of the public institutions, grounds or buildings of such state in excess of the receipts from counties, municipalities, railroad corporations or persons within the limits of said State as provided in this article; and if there should be a surplus at the time of such final adjustment, each state shall be entitled to the amount received from counties, municipalities, railroad corporations or persons within its limits, over and above the amount charged to it.

## XXII.

The payment from South Dakota to North Dakota shall be made by South

Dakota's assuming North Dakota's share of current liabilities at the time of final adjustment, to the extent of South Dakota's indebtedness under this agreement, to North Dakota; and if any balance shall remain due to North Dakota from South Dakota, payment of said balance shall be provided for by the first Legislature of South Dakota.

## XXIII.

Upon the taking effect of this agreement all claims for taxes due the Territory of Dakota shall become the property of and may be collected by the State or Territory within the limits whereof the counties are situate against which such taxes stand charged upon the Territorial Treasurer's books.

But this article shall not be held to refer to or govern the disposal of any taxes to be paid by railroad corporations which are specifically provided for by Article XXI. hereof.

## XXIV.

All other claims and demands of the Territory of Dakota outstanding when this agreement shall take effect, the collection whereof is not hereinbefore provided for, shall be sued upon and collected by the State of South Dakota, and the costs of suits so brought and the amounts collected shall be divided equally between the two States of North Dakota and South Dakota.

And said Commission so assembled and acting under and by virtue of the authority upon it by said Act of Congress conferred, further agrees as follows:

## I.

The following books, records and archives of the Territory of Dakota shall be the property of North Dakota, to-wit: All records, books and archives in the offices of the Governor and Secretary of the territory (except records of Articles of Incorporation of Domestic Corporations, returns of election of Delegates to the Constitutional Convention of 1889 for South Dakota, returns of elections held under the so called Local Option Law, in counties within the limits of South Dakota, bonds of Notaries Public appointed for counties within the limits of South Dakota, papers relating to the organization of counties situate within the limits of South Dakota, all which records and archives are a part of the records and archives of said secretary's office; excepting also Census returns from counties situate within the limits of South Dakota and papers relating to requisitions issued upon the application of officers of counties situate within the limits of South Dakota, all which are a part of the records and archives of said Governor's office). And the following records, books and archives shall also be the property of the State of North Dakota, to-wit:

Vouchers in the office or in the custody of the Auditor of this Territory relating to expenditures on account of public institutions, grounds or buildings situate within the limits of North Dakota. One Warrant Register in the office of the Treasurer of this Territory—being a record of warrants issued under and by virtue of Chapter 24 of the laws enacted by the Eighteenth Legislative Assembly of Dakota Territory: All letters, receipts and vouchers in the same office now filed by counties and pertaining to counties within the limits of North Dakota. Paid and canceled coupons in the same office representing interest on bonds which said State of North Dakota is to assume and pay. Reports of gross earnings of the year 1888 in the same office, made by corporations operating lines of railroads situated wholly or mainly within the limits of North Dakota. Records and papers of the office of the Public Examiner of the Second District of the Territory. Records and papers of the office of the District Board of Agriculture. Records and papers in the office of the Board of Pharmacy of the District of North Dakota.

All records, books and archives of the Territory of Dakota which it is not herein agreed shall be the property of North Dakota, shall be the property of South Dakota.

The following books shall be copied and the copies shall be the property of North Dakota and the cost of such copies shall be borne equally by said States of North Dakota and South Dakota. That is to say:

Appropriation Ledger for years ending ending November 1889-90—one volume.

The Current Warrant Auditor's Register—one volume.

Insurance Record for 1889—one volume.

Treasurer's Cash Book—"D."

Assessment Ledger—"B."

Dakota Territory Bond Register—one volume.

Treasurer's Current Ledger—one volume.

The originals of the foregoing volumes which are to be copied shall at any time after such copying shall have been completed, be delivered on demand to the proper authorities of the State of South Dakota.

All other records, books and archives which it is hereby agreed shall be the property of South Dakota, shall remain at the Capital of North Dakota until demanded by the Legislature of the State of South Dakota and until the State of North Dakota shall have had a reasonable time after such demand is made to provide copies or abstracts of such portions thereof as the said State of North Dakota may desire to have copies or abstracts of.

The State of South Dakota may also provide copies or abstracts of such records, books and archives which it is agreed shall be the property of North Dakota as said State of South Dakota shall desire to have copies or abstracts of.

The expense of all copies or abstracts of records, books and archives which it is herein agreed may be made, shall be borne equally by said two states.

## II.

And this Commission further agrees that the two committees composing the same shall recommend to their respective Conventions for adoption as a part of the schedule of the proposed Constitution for the State of North Dakota and the State of South Dakota respectively, the following: That is to say:

"The agreement made by the Joint Commission of the Constitutional Conventions of North and South Dakota concerning the records, books and archives of the Territory of Dakota is hereby ratified and confirmed, which agreement is in the words following. That is to say:" (And then shall follow the words of the article last above written.)

In testimony and confirmation whereof, the said Joint Commission now assembled and acting as such, has caused this agreement to be signed and executed by and on its behalf and as its act and deed, and witnessed by the names hereto by each subscribed of the members comprising said Joint Commission as hereinbefore recited.

Done at Bismarck, Dakota, this 31st day of July, A. D. 1889.

E. W. CAMP,	A. G. KELLAM,
BURLEIGH F. SPALDING,	V. T. MCGILLYCUDDY,
ALEX GRIGGS,	HENRY NEILL,
ANDREW SANDAGER,	E. W. CALDWELL,
W. E. PURCELL,	W. ELLIOTT,
HARVEY HARRIS,	CHARLES H. PRICE,
JOHN W. SCOTT,	S. F. BROTT.

On motion this agreement was adopted by the following vote in the affirmative: Messrs. Camp, Spalding, Griggs, Sandager, Purcell, Harris, Scott. Kellam, McGillicuddy, Neill, Caldwell, Elliott, Price and Brott.

It was moved and seconded that the members do now sign this agreement.

Which motion was adopted.

All the members voting in the affirmative.

And thereupon the members proceeded to sign the same.

The report of the committee appointed to prepare articles to be presented to the respective Conventions of North and South Da-

kota, to be incorporated in the Constitutions of each State report as follows:

## ARTICLE —

## TERRITORIAL DEBTS AND LIABILITIES.

SECTION 1. In order that payment of the debts and liabilities contracted or incurred by and in behalf of the Territory of Dakota may be justly and equitably provided for and made, and in pursuance of the requirements of an act of Congress approved February 22, 1889, entitled "An Act to provide for the division of Dakota into two states and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments and to be admitted into the Union on an equal footing with the original states, and to make donations of public lands to such states," the states of North Dakota and South Dakota, by proceedings of a Joint Commission, duly appointed under said act, the sessions whereof were held at Bismarck in said state of North Dakota, from July 16, 1889, to July 31, 1889, inclusive, have agreed to the following adjustment of the amounts of the debts and liabilities of the Territory of Dakota which shall be assumed and paid by each of the States of North Dakota and South Dakota, respectively, to-wit:

1. This agreement shall take effect and be in force from and after the admission into the Union, as one of the United States of America, of either the State of North Dakota or the State of South Dakota.

2. The words "State of North Dakota" wherever used in this agreement, shall be taken to mean the Territory of North Dakota in case the State of South Dakota shall be admitted into the Union prior to the admission into the Union of the State of North Dakota; and the words "State of South Dakota," wherever used in this agreement, shall be taken to mean the Territory of South Dakota in case the State of North Dakota shall be admitted into the Union prior to the admission into the Union of the State of South Dakota.

SEC. 2. The said State of North Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of North Dakota, and shall pay all warrants issued under and by virtue of that certain act of the Legislative Assembly of the Territory of Dakota, approved March 8, 1889, entitled "An Act to provide for the refunding of outstanding warrants drawn on the Capitol Building fund."

SEC. 3. The said State of South Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of South Dakota.

SEC. 4. That is to say: The State of North Dakota shall assume and pay the following bonds and indebtedness, to-wit:

Bonds issued on account of the Hospital for Insane at Jamestown, North Dakota, the face aggregate of which is \$266,000; also, bonds issued on account of the North Dakota University at Grand Forks, North Dakota, the face aggregate of which is \$96,700; also, bonds issued on account of the Penitentiary at Bismarck, North Dakota, the face aggregate of which is \$93,600; also, refunding Capitol Building warrants dated April 1, 1889, \$83,507.46.

And the State of South Dakota shall assume and pay the following bonds and indebtedness, to-wit:

Bonds issued on account of the Hospital for the Insane at Yankton, South Dakota, the face aggregate of which is \$210,000; also, bonds issued on account of the School for Deaf Mutes, at Sioux Falls, South Dakota, the face aggregate of which is \$51,000; also, bonds issued on account of the University at Vermillion, South Dakota, the face aggregate of which is \$75,000; also, bonds issued on account of the Penitentiary at Sioux Falls, South Dakota, the face aggregate of which is \$94,300; also, bonds issued on account of the Agricultural College, at Brookings, South Dakota, the face aggregate of which is \$97,500; also, bonds issued on account of the Normal School at Madison, South Dakota, the face aggregate of which is \$49,400; also, bonds issued on account of the School of Mines at

Rapid City, South Dakota, the face aggregate of which is \$33,000; also, bonds issued on account of the Reform School at Plankinton, South Dakota, the face aggregate of which is \$30,000; also, bonds issued on account of the Normal School at Spearfish, South Dakota, the face aggregate of which is \$25,000; also, bonds issued on account of the Soldiers' Home at Hot Springs, South Dakota, the face aggregate of which is \$45,000.

SEC. 5. The States of North Dakota and South Dakota shall pay one-half each of all liabilities now existing or hereafter and prior to the taking effect of this agreement incurred, except those heretofore or hereafter incurred on account of public institutions, grounds or buildings, except as otherwise herein specifically provided.

SEC. 6. The State of South Dakota shall pay to the State of North Dakota \$46,500, on account of the excess of Territorial appropriations for the permanent improvement of territorial institutions which under this agreement will go to South Dakota, and in full of the undivided one-half interest of North Dakota in the territorial library, and in full settlement of unbalanced accounts, and of all claims against the territory, of whatever nature, legal or equitable, arising out of the alleged erroneous or unlawful taxation of Northern Pacific railroad lands, and the payment of said amount shall discharge and exempt the State of South Dakota from all liability for or on account of the several matters hereinbefore referred to; nor shall either State be called upon to pay or answer to any portion of liability hereafter arising or accruing on account of transactions heretofore had, which liability would be a liability of the territory of Dakota had such territory remained in existence, and which liability shall grow out of matters connected with any public institution, grounds or buildings of the territory situated or located within the boundaries of the other State.

SEC. 7. A final adjustment of accounts shall be made upon the following basis: North Dakota shall be charged with all sums paid on account of the public institutions, grounds or buildings located within its boundaries on account of the current appropriations since March 8, 1889; and South Dakota shall be charged with all sums paid on account of public institutions, grounds or buildings located within its boundaries on the same account and during the same time. Each state shall be charged with one-half of all other expenses of the territorial government during the same time. All moneys paid into the treasury during the period from March 8, 1889, to the time of taking effect of this agreement by any county, municipality or person within the limits of the proposed State of North Dakota, shall be credited to the State of North Dakota; and all sums paid into said treasury within the same time by any county, municipality or person within the limits of the proposed State of South Dakota shall be credited to the State of South Dakota; except that any and all taxes on gross earnings paid into said treasury by railroad corporations, since the 8th day of March, 1889, based upon earnings of years prior to 1888, under and by virtue of the act of the Legislative Assembly of the Territory of Dakota, approved March 7, 1889, and entitled "An Act providing for the levy and collection of taxes upon property of railroad companies in this Territory," being Chapter 107 of the Session Laws of 1889 (that is, the part of such sum going to the Territory) shall be equally divided between the States of North Dakota and South Dakota; and all taxes heretofore or hereafter paid into the said treasury under and by virtue of the act last mentioned, based on the gross earnings of the year 1888, shall be distributed as already provided by law, except that so much thereof as goes to the territorial treasury shall be divided as follows: North Dakota shall have so much thereof as shall be or has been paid by railroads within the limits of the proposed State of North Dakota, and South Dakota so much thereof as shall be or has been paid by railroads within the limits of the proposed State of South Dakota; each state shall be credited also with all balances of appropriations made by the Seventeenth Legislative Assembly of the Territory of Dakota for the account of the public institutions, grounds or buildings situated within its limits, remaining unexpended on March 8, 1889. If there shall be any indebtedness except the indebtedness represented by the bonds and refunding warrants hereinbefore mentioned, each State shall at the time of such final adjustment of accounts, assume its share of said indebtedness as determined by the amount paid on account of the public institutions, grounds or buildings of such State in excess of the receipts from counties,

municipalities, railroad corporations or persons within the limits of said State as provided in this article; and if there should be a surplus at the time of such final adjustment, each State shall be entitled to the amounts received from counties, municipalities, railroad corporations or persons within its limits over and above the amount charged it.

IN WITNESS WHEREOF, the members of said Joint Commission have subscribed their names hereto, this thirty-first day of July, A. D. 1889, at Bismarck, Dakota.

SEC. 2. And the State of North Dakota hereby obligates itself to pay such part of the debts and liabilities of the Territory of Dakota as is declared by the foregoing agreement to be its proportion thereof, the same as if such proportion had been originally created by said State of North Dakota as its own debt or liability.

SEC. 2. And the State of South Dakota hereby obligates itself to pay such part of the debts and liabilities of the Territory of Dakota as is declared by the foregoing agreement to be its proportion thereof, the same as if such proportion had been originally created by said State of South Dakota as its own debt or liability.

On motion the report was adopted by the affirmative vote of all members of the Commission.

Adjourned to meet at 9 p. m.

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EVENING SESSION.

Mr. Camp called the Commission to order.

All of the members were present.

The articles prepared by the Commission and adopted at the afternoon session were presented, and it was moved and seconded that the members of the Commission do now sign the same, which motion was carried by the unanimous vote of the Commission, and the articles were thereupon signed by the Commission.

The following resolutions were presented and adopted:

*Resolved*, That the thanks of this Joint Commission be, and they are hereby extended to the Chairmen of the respective committees, Messrs. Camp and Kellam, for their admirable execution of the duties imposed upon them, and particularly for their labors in the preparation of the final agreement between the two States.

*Resolved*, That thanks are likewise extended to the Clerks and Stenographers of the Commission for the manner in which their duties have been performed

The following resolution was presented and adopted unanimously:

*Resolved*, That the thanks of the Commission be extended to Gov. A. C. Mellett, for the use of his rooms at the Capitol for meetings of this Commission.

The journal was then read, corrected and approved.

On motion the Commission adjourned in accordance with a

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resolution passed at this mornings session, subject to the call of  
the chairman.

Approved

A. G. KELLAM,  
Chairman South Dakota Commission.  
EDGAR W. CAMP,  
Chairman North Dakota Commission.

Signed,

ANDREW SANDAGER,  
V. T. MCGILLYCUDDY,  
Secretaries.  
L. P. McCLARBEN,  
WM. G. HAYDEN,  
Assistant Secretaries.

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