

CONSTITUTIONAL AMENDMENTS PROPOSED

CHAPTER 112

Senate Concurrent Resolution No. 135—(Wog, Guthrie and Fowler)

COUNTY GOVERNMENT

A concurrent resolution providing for the amendment of Sections 167, 170, 172 and 173 and the repeal of Section 171 of the Constitution of North Dakota.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the following proposed amendments to Section 167, 170, 172 and 173, and repeal of Section 171 of the Constitution of the State of North Dakota, are agreed to and that the same be submitted to the qualified electors of the State of North Dakota for approval or rejection, in accordance with the provisions of Section 202 of the Constitution of the State of North Dakota, as amended.

§ 1. AMENDMENT.] That Section 167 of the Constitution of the State of North Dakota, is hereby amended and re-enacted to read as follows:

§ 167. The Legislative Assembly shall provide by general law for organizing new counties, locating the county seats thereof temporarily, and changing the 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 five 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.

The Legislative Assembly shall also provide by general law for the consolidation of counties, and for their dissolution, but no counties shall be consolidated without a fifty-five percent vote of those voting on the question in each county affected, and no county shall be dissolved without a fifty-five percent vote of the electors of such county voting on such question.

§ 2. AMENDMENT.] That Section 170 of the Constitution of the State of North Dakota, is hereby amended and re-enacted to read as follows:

§ 170. The Legislative Assembly shall provide by law for optional forms of government for counties, which forms shall be, in addition to that form provided by Sections 172 and 173 of the Constitution, and which forms shall specify the number, functions

and manner of selection of county officers, but no such optional form of government shall become operative in any county until submitted to the electors thereof at a special election or a general election, and approved by fifty-five per cent of those voting thereon. The manner of exercising the powers herein granted shall be by general laws, but such laws shall provide that the initiative for the submission of the question of the adoption of one of the optional forms of county government may be had either by a vote of not less than two-thirds of the county legislative body or upon petition of electors of the county equal to at least fifteen per centum of the total number of voters of the county who voted for Governor at the last general election. Among the optional forms of county government to be provided by the Legislative Assembly under this provision, at least one form shall provide for a county manager.

§ 3. REPEAL.] That Section 171 of the Constitution of the State of North Dakota be and the same is hereby repealed.

§ 4. AMENDMENT.] That Section 172 of the Constitution of the State of North Dakota is hereby amended and re-enacted to read as follows:

§ 172. Until one of the optional forms of county government provided by the Legislative Assembly under Section 170 of the Constitution, as amended, be 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.

§ 5. AMENDMENT.] That Section 173 of the Constitution of the State of North Dakota, as amended, is hereby amended and re-enacted to read as follows:

§ 173. At the first general election after the adoption of this amendment, and every two years thereafter, there shall be elected in each county organized under the provisions of Section 172 of the Constitution, a register of deeds, county auditor, treasurer, sheriff, State's attorney, county judge and a clerk of the district court, who shall be electors in the county in which they are elected and who shall hold office until their successors are elected and qualified; provided in counties having fifteen thousand population, or less, the county judge shall also be clerk of the district court; provided further that in counties having a population of 6,000 or less, the register of deeds shall also be clerk of the district court and county judge. The sheriff and treasurer of any county shall not hold their respective offices for more than four years in succession.

Filed March 4, 1939.

CHAPTER 113

House Concurrent Resolution No. 91—(Bingenheimer, Page, Saumur
and Wambheim)

LEGISLATIVE POWER, INITIATIVE AND REFERENDUM

A concurrent resolution providing for the amendment of Section 25 of Article 2 of the Constitution of the State of North Dakota, relating to the legislative power of the State, and the initiative and referendum.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:

That the following proposed amendment to Section 25 of Article 2 of the Constitution of the State of North Dakota is agreed to and that the same be submitted to the qualified electors of the State for approval or rejection, in accordance with the provisions of Section 202 of the Constitution of the State of North Dakota, as amended.

§ 1. AMENDMENT.] That Section 25 of Article 2 of the Constitution of the State of North Dakota is hereby amended and re-enacted to read as follows:

§ 25. The legislative power of this State shall be vested in a legislature consisting of a Senate and a House of Representatives. The people, however, reserve the power, first to propose measures and to enact or reject the same at the polls; second, to approve or reject at the polls any measure or any item, section, part or parts of any measure enacted by the legislature.

The first power reserved is the initiative. Fifteen thousand electors at large may propose any measure by initiative petition. Every such petition shall contain the full text of the measure and shall be filed with the Secretary of State not less than ninety days before the election at which it is to be voted upon.

The second power reserved is the referendum. Fifteen thousand electors at large may, by referendum petition, suspend the operation of any measure enacted by the legislature, except an emergency measure. But the filing of a referendum petition against one or more items, sections or parts of any measure shall not prevent the remainder from going into effect. Such petition shall be filed with the Secretary of State not later than ninety days after the adjournment of the session of the legislature at which such measure was enacted. No initiative or referendum petition shall be circulated or filed during a regular or special session of the legislature.

Each measure initiated by or referred to the electors, shall be submitted by its ballot title, which shall be placed upon the ballot by the Secretary of State and shall be voted upon at any State-wide election designated in the petition, or at any special election.

called by the Governor. The result of the vote upon any measure shall be canvassed and declared by the board of canvassers.

All initiated measures providing for the expenditure of public funds shall prescribe in such act when initiated a special levy or tax and the method by which such funds shall be raised to carry into effect the purpose of the measure so initiated.

Any measure, except an emergency measure submitted to the electors of the State shall become a law when approved by a majority of the votes cast thereon. Such law shall go into effect on the thirtieth day after the election, unless otherwise specified in the measure.

If a referendum petition is filed against an emergency measure, such measure shall be a law until voted upon by the electors, and if it is then rejected by a majority of the votes cast thereon, it shall be thereby repealed. Any such measure may be submitted to the electors at a special election if so ordered by the Governor or if the referendum petition filed against it shall be signed by thirty-five thousand electors at large, such special election may be called by the Governor and shall be held not less than one hundred nor more than one hundred thirty days after the adjournment of the session of the legislature.

The Secretary of State shall pass upon each petition, and if he finds it insufficient he shall notify the "committee for the petitioners" and allow twenty days for correction or amendment. All decisions of the Secretary of State in regard to any such petition shall be subject to review by the Supreme Court. But if the sufficiency of such petition is being reviewed at the time the ballot is prepared, the Secretary of State shall place the measure on the ballot, and no subsequent decision shall invalidate such measure if it is at such election approved by a majority of the votes cast thereon. If the proceedings are brought against any petition upon any ground, the burden of proof shall be upon the party attacking it.

If more than one measure, initiated or referred, is to be placed upon the ballot, the Secretary of State shall place all measures proposing amendments to the Constitution in one group and other measure in another group and shall number all measures consecutively.

No law shall be enacted limiting the number of copies of a petition which may be circulated. Such copies shall become a part of the original petition when filed or attached thereto. Nor shall any law be enacted prohibiting any person from giving or receiving compensation for circulating the petition, nor in any manner interfering with the freedom in securing signatures to petitions.

Each petition shall have printed thereon a ballot title which shall fairly represent the subject matter of the measure and the

names of at least five electors who shall constitute the "committee for petitioners" and who shall represent and act for the petitioners.

The enacting clause of all measures initiated by the electors, shall be: "Be it enacted by the people of the State of North Dakota." In submitting measures to the electors, the Secretary of State, and all other officials shall be guided by the election laws until additional legislation shall be provided.

If conflicting measures initiated by or referred to the electors shall be approved by a majority of the votes cast thereon, the ones receiving the highest number of affirmative votes shall become the law.

The word "measure" as used herein shall include any law or amendment thereto, resolution, legislative proposal or enactment of any character.

The veto power of the Governor shall not extend to the measures initiated by or referred to the electors. No measures enacted or approved by a vote of the electors shall be repealed or amended by the legislature, except upon a yea and nay vote upon roll call of two-thirds of all the members elected to each house.

This section shall be self-executing and all of its provisions shall be treated as mandatory. Laws may be enacted to facilitate its operation, but no law shall be enacted to hamper, restrict or impair the exercise of the rights herein reserved to the people.

Filed March 8, 1939.

CHAPTER 114

Senate Concurrent Resolution No. 148—(Stucke, Holl and Morrison)

RECALL

A concurrent resolution providing for the amendment of Article 33 of the Constitution of North Dakota, relating to the recall.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:

That the following proposed amendment to Article 33 of the Constitution of the State of North Dakota is agreed to, and that the same be submitted to the qualified electors of the State for approval or rejection in accordance with the provisions of Section 202 of the Constitution of the State of North Dakota, as amended:

§ 1. AMENDMENT.] That Article 33 of the Constitution of North Dakota is hereby amended and re-enacted to read as follows:

The qualified electors of the State or of any county, or of any

congressional, judicial or legislative district may petition for the recall of any elective congressional, State, county, judicial or legislative officer by filing a petition with the officer with whom the petition for nomination to such office in the primary election is filed, demanding the recall of such officer. Such petition shall be signed by at least thirty per cent of the qualified electors who voted at the preceding election for the office of Governor in the State, county or district from which such officer is to be recalled, and shall contain a statement of the grounds on which the removal or recall is sought, which statement is intended solely for the information of the electors. Any insufficiency of form or substance in such statement shall in no wise affect the validity of the election and proceedings held hereunder. The signatures to the petition need not all be appended to one paper, but the statement shall appear at the head of each separate paper or part of the petition, and shall be followed by the signature, legal residence, and date of signing of each petitioner written by the petitioner in ink or indelible pencil, and by the affidavit of the person in charge of the paper or part that the signatures have all been made in his presence by the persons whose names they purport to be, and are legal signatures to the best of his belief. The petition shall be filed within sixty days after the date of the earliest signature thereon, and the officer with whom such petition is filed shall call a special election to be held not less than forty nor more than forty-five days from the filing of such petition.

Upon the sample ballot there shall be printed, in not more than two hundred words, the reasons set forth in the recall petition for demanding the recall of the officer, and upon the same ballot in not more than two hundred words the officer may justify his course in office.

There shall be printed on the recall ballot, as to every officer whose recall is to be voted on thereat, the following question: "Shall (individual name of person against whom the recall petition is filed) be recalled from the office of (title of the office)?" following which question shall be the words "yes" and "no" on separate lines with a blank space at the right of each, in which the voter shall indicate by placing a cross (X) his vote for or against such recall. On such ballots, under each such question there shall also be printed the names of those persons who may be nominated in the manner as provided by law in primary elections as candidates to succeed the person recalled, in case he shall be removed from office by such recall election, but no vote shall be counted for any candidate for such office unless the voter also voted on the question of the recall of the person sought to be recalled from such office. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office.

If a majority of those voting on the question of the recall of any incumbent from office shall vote "No" such incumbent shall

continue in such office. If a majority shall vote "Yes" such incumbent shall thereupon be deemed removed from such office, upon the qualification of his successor. The canvassers shall canvass all votes for candidates for such office and declare the result in like manner as in a regular election. If the vote at any such recall election shall recall the officer, then the candidate who has received the highest number of votes for the office shall be declared elected for the remainder of the term. In case the person who received the highest number of votes shall fail to qualify within ten days after receiving the certificate of election, the office shall be deemed vacant and shall be filled according to law.

After one such petition and special election, no further recall petition shall be filed against the same officer during the term for which he was elected. This article shall be self executing and all of its provisions shall be treated as mandatory. Laws may be enacted to facilitate its operation, but no law shall be enacted to hamper, restrict or impair the right of recall.

Filed March 8, 1939.

COPYRIGHT

CHAPTER 115

S. B. No. 284—(Committee on Delayed Bills)

COPYRIGHT ACT

An act relating to copyrights and public performing rights in musical compositions and dramatico-musical compositions, requiring lists thereof to be filed, regulating the issue of licenses with respect thereto, prohibiting discrimination, providing for service of process, levying a privilege tax, providing penalties, and repealing inconsistent acts.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. As used in this act, "person" means any individual, resident or non-resident, of this State, and every domestic or foreign or alien partnership, society, association or corporation; the words "performing rights" refer to "public performance for profit"; the word "user" means any person who directly or indirectly performs or causes to be performed musical compositions for profit; the term "blanket license" includes any device whereby public performance for profit is authorized of the combined copyrights of two or more owners; the term "blanket royalty or fee" includes any device