

TWENTY-SECOND DAY

Bismarck, February 1, 1972

The Convention was called to order at 9:00 a.m., by President Wenstrom.

Prayer was offered by Rev. Walter C. Ellingson, St. George's Episcopal Church, Bismarck.

"Almighty God, who has given us this good land for our heritage: we humbly ask that we may always prove ourselves a people mindful of Your favor and intent upon doing Your will.

"Guide and direct those assembled here today as they struggle with the responsibility given to them by the people of this state. Help them to make proper decisions for the welfare of each person in the state. And particularly, grant to each citizen of the state a true sense of thanks and appreciation for their labors and effort.

"All of this we ask in Your name — who granted to us the freedom and ability to make proper and just decisions for ourselves and our fellow men. Amen."

Roll was called, and all Delegates were present except Delegates Butler and Tudor.

A quorum was declared by the President.

REPORT OF PROCEDURAL COMMITTEE

Mr. President: Your Committee on Enrollment and Engrossment respectfully report that they have examined the following: Committee Proposal No. 1-89

And find the same correctly engrossed.

DELEGATE ERICKSON, Chairman

Delegate Aubol moved that the report be adopted, which motion prevailed, and the report was adopted.

REVISION AND CORRECTION OF THE JOURNAL

Mr. President: Your Committee on Revision and Correction of the Journal has carefully examined the Journal of the 28th day of January, 1972, and recommends that the same be corrected as follows:

On page 342, line 18, delete the numeral "1-107" and insert in lieu thereof "1-106"

On page 330, line 48, delete the word "moved" and insert in lieu thereof the word "announced"

And when so corrected recommends that the same be approved.

DELEGATE SIMONSON, Chairman

Delegate Dobson moved that the report be adopted, which motion prevailed.

CONSIDERATION OF AMENDMENTS

Delegate Meidinger has moved that the amendments to Committee Proposal 1-15, as recommended by the Majority of the

Committee on Education, Resources and Public Lands and as printed on pages 293 and 294 of the Journal, be adopted, which motion prevailed.

Delegate Maxwell has moved that the amendments to Committee Proposal 1-85, as recommended by the Committee on Preamble, Bill of Rights and Suffrage and as printed on pages 350 and 351 of the Journal, be adopted, which motion prevailed.

Delegate Hernettt has moved that the amendments to Committee Proposal 1-100 except for Section 1(a) and Section 2, as recommended by the Committee on Executive Functions and as printed on page 358 of the Journal, be adopted, which motion prevailed.

FIRST READING OF PROPOSALS

Committee Proposal No. 1-119. Be it resolved by the North Dakota Constitutional Convention that section 7 of the constitution of the state of North Dakota be repealed; and that a new section to the constitution of the state of North Dakota be created; both of which pertain to jury trial.

Which has been read.

Delegate Thompson moved that Committee Proposal 1-119 be amended as follows:

In line 14 following the first word "cases" delete the comma and insert the word "and" and following the second word "cases" insert a comma and delete the remainder of the line.

Renumber the lines accordingly.

Delegate Litten moved the previous question, which motion prevailed.

Delegate Warner requested a recorded roll call vote on the motion to adopt the amendment to Committee Proposal 1-119.

ROLL CALL

The roll was called and there were ayes, 55; nays, 39; absent and not voting, 4.

Those voting in the affirmative were:

Aas	Diehl	Kelsch	Peterson
Baker	Engstrom	Kessel	Quam
Benson	Erickson	Kretschmar	Roney
Billey	Fallgatter	Lander	Rosendahl
Binek	Fritzell	Lerberg	Rude
Birkeland	Gipp	Litten	Stanton
Burbidge	Griffin	Longmire	Thompson
Burke	Hartl	McElroy	Trenbeath
Byrne	Haugen	Meidinger	Unruh
Cart	Hendrickson	Miller	Wallin
Chase	Hildebrand	Nething	Warner
Christensen	Hill	Nicholas	Wicks
Decker	Hoghaug	O'Toole	Mr. President
Devine	Jestrab	Pearce	

Those voting in the negative were:

Aubol	Geelan	Larsen	Scheel
Bassingthwaite	Hardmeyer	McIntyre	Schmit
Bender	Hoffner	Maxwell	Simonson
Benz	Hougen	Omdahl	Sinner
Berg	Hubrig	Paulson	Solberg
Brakke	Huckle	Peters	Sondreal
Daniels	Ketchum	Poulson	Sullivan
Dobson	Knudson	Rundle	Urdahl
Engelter	Kwako	Sanstead	Vogel
Fiedler	Lamb	Saugstad	

Absent and not voting:

Butler	Dawson	Hernettt	Tudor
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The motion prevailed, and the amendment was adopted.

Delegate Thompson moved that the rules be suspended, and Committee Proposal 1-119 be deemed properly engrossed and placed on the calendar for first reading which motion failed.

President Wenstrom declared the Convention would stand in recess for fifteen minutes.

Convention reconvened with President Wenstrom presiding.

EXPLANATION OF VOTE

Delegate O'Toole: "Mr. President:

"I would like to explain my vote on the amendment to Committee Proposal 1-119.

"While I did not enter into the discussion on the floor, I did involve myself in this greatly in committee. I am greatly concerned, as many of the other people here are, about destroying the juvenile court system. I voted for the amendment primarily because I did not want to destroy the system, but also I think it should be considered as a directive to the legislature to correct the inequities Judge Maxwell has pointed out. In the four criteria listed for juvenile hearings, all of these must be met, and in many cases they cannot be met, and I think there is an inequity there, and I hope that the legislature will see this as a directive for correcting that inequity."

MOTIONS

Delegate Sinner moved that the Convention reconsider its action by which Committee Proposal 1-70 was passed, which motion prevailed.

Delegate Sinner moved that Committee Proposal 1-70 be placed at the foot of the calendar, which motion prevailed.

President Wenstrom called Delegate Saugstad to the rostrum to preside.

FIRST READING OF PROPOSALS

Committee Proposal No. 1-12. Be it resolved by the North Dakota Constitutional Convention that sections 130, 166, 167, 168, 169, 170, 172 and 173 of the constitution of the state of North Dakota be repealed; and that article XII of the constitution of the state of North Dakota be created; all of which pertain to political subdivisions.

Which has been read.

Delegate Wallin moved that the engrossed Committee Proposal 1-12 be amended as follows:

On page 1, of the engrossed proposal, line 1, following the first comma, insert the following: "150,"

On page 1, line 7, following the first comma, insert the following: "150,"

And renumber the lines accordingly.

Which motion prevailed.

Delegate Omdahl moved that Committee Proposal 1-12 be amended as follows:

On page 2 of the engrossed proposal, delete lines 5 through 12,

And renumber the lines accordingly.

Which motion failed.

Delegate Omdahl moved that Committee Proposal 1-12 be amended as follows:

On page 2 of the engrossed proposal, delete lines 13 through 18 and insert in lieu thereof the following:

"Section 6. Home Rule.

The legislative assembly shall provide by law for the establishment and exercise of home rule in counties and cities. No home

rule charter shall become operative in any county or city until submitted to the electors thereof and approved by a majority of those voting thereon. The legislative assembly shall not be restricted in granting home rule powers to cities by limitation on debts of cities contained in this constitution."

And renumber the lines accordingly.

Which motion prevailed.

The President declared the Convention stand recessed for one hour.

The Convention reconvened with Acting President Saugstad presiding.

Delegate Omdahl moved that Committee Proposal 1-12 be amended as follows:

On page 3 of the engrossed proposal in line 2, following the word "question" insert the following: "or by adoption of a home rule charter"

And renumber the lines accordingly.

Which motion prevailed.

Delegate Baker moved that Committee Proposal 1-12 be amended as follows:

On line 1 of the title of the engrossed proposal after "sections" delete "130"

On line 7 of the proposal after "Sections" delete "130"

On page 2 line 10 after "unless" delete "a majority" and insert in lieu thereof "55 percent"

Delete all of lines 13 through 18

On line 23 after "by" delete "a majority" and insert in lieu thereof "55 percent"

On page 3 line 1 after "by" delete "a majority" and insert in lieu thereof "55 percent"

On page 3 line 3 after "law" delete the comma and insert in lieu thereof a period and delete "and"

Delete all of lines 4 through 6 on page 3

Renumber the sections and lines accordingly.

Delegate Baker called for a division of the question, in such manner that the amendment to page 2 line 10, after "unless" delete "a majority" and insert in lieu thereof "55 percent";

On line 23 of page 2 after "by" delete "a majority" and insert in lieu thereof "55 percent";

On page 3, line 1, after "by" delete "a majority" and insert in lieu thereof "55 percent"

Can be voted on separately.

The question then was on the motion to amend Committee Proposal 1-12 to change a majority vote to a vote of 55 percent.

Which motion failed.

The question then was on that portion of the motion to amend Committee Proposal 1-12 as follows:

On line 1 of the title after "sections" delete "130"

On line 7 of the proposal after "Sections" delete "130"

Delete on page 2 all of lines 13 through 18

On page 3, line 3 after "law" delete the comma and insert in lieu thereof a period and delete "and"

Delete all of lines 4 through 6 on page 3

Which motion failed.

Delegate Longmire moved that the rules be suspended, and that Committee Proposal 1-12 be deemed properly re-engrossed

and placed on the calendar for first passage, which motion prevailed.

ROLL CALL

The question being on the first passage of the proposal, as amended, the roll was called and there were ayes, 94; nays, 2; absent and not voting, 2.

Those voting in the affirmative were:

Aas	Erickson	Kretschmar	Roney
Aubol	Fallgatter	Kwako	Rosendahl
Bassingthwaite	Fiedler	Lamb	Rude
Bender	Fritzell	Lander	Rundle
Benson	Geelan	Larsen	Sanstead
Benz	Gipp	Lerberg	Saugstad
Berg	Griffin	Litten	Scheel
Billey	Hardmeyer	Longmire	Schmit
Binek	Hartl	McElroy	Simonson
Birkeland	Haugen	McIntyre	Sinner
Brakke	Hendrickson	Maxwell	Solberg
Burbidge	Hernett	Meidinger	Sondreal
Burke	Hildebrand	Miller	Stanton
Byrne	Hill	Nething	Sullivan
Chase	Hoffner	Nicholas	Thompson
Christensen	Hoghaug	O'Toole	Trenbeath
Daniels	Hougen	Omdahl	Unruh
Dawson	Hubrig	Paulson	Urdahl
Decker	Huckle	Pearce	Vogel
Devine	Jestrab	Peters	Wallin
Diehl	Kelsch	Peterson	Warner
Dobson	Kessel	Poulson	Wicks
Engelter	Ketchum	Quam	Mr. President
Engstrom	Knudson		

Those voting in the negative were:

Baker Cart

Absent and not voting:

Butler Tudor

So the proposal passed and the title was agreed to, and Committee Proposal 1-12 was referred to the Committee on Style and Drafting.

FIRST READING OF PROPOSALS

Committee Proposal No. 1-60. Be it resolved by the North Dakota Constitutional Convention that section 8 of the constitution of the state of North Dakota be repealed; and that a new section to the constitution of the state of North Dakota be created; both of which pertain to indictment and information.

Which has been read.

Delegate Nething moved that Committee Proposal 1-60 be moved to the foot of the calendar, which motion prevailed.

Committee Proposal No. 1-80. Be it resolved by the North Dakota Constitutional Convention that section 208 of the constitution of the state of North Dakota be repealed.

Which has been read.

ROLL CALL

The question being on the first passage of the proposal, as amended, the roll was called and there were ayes, 45; nays, 47; absent and not voting, 6.

Those voting in the affirmative were:

Aubol	Fallgatter	Litten	Saugstad
Bender	Fiedler	McIntyre	Schmit
Birkeland	Fritzell	Maxwell	Simonson
Burbidge	Geelan	Meidinger	Sinner

Burke	Hill	O'Toole	Solberg
Cart	Hoffner	Omdahl	Sondreal
Christensen	Hubrig	Paulson	Sullivan
Daniels	Huckle	Peters	Thompson
Dawson	Jestrab	Peterson	Urdahl
Decker	Lamb	Quam	Vogel
Diehl	Lerberg	Roney	Wicks
Dobson			

Those voting in the negative were:

Aas	Engstrom	Kelsch	Nicholas
Baker	Erickson	Kessel	Pearce
Bassingthwaite	Gipp	Ketchum	Poulson
Benson	Griffin	Knudson	Rosendahl
Benz	Hardmeyer	Kretschmar	Rude
Berg	Hartl	Kwako	Rundle
Billey	Haugen	Lander	Sanstead
Binek	Hendrickson	Larsen	Scheel
Brakke	Hernett	Longmire	Stanton
Byrne	Hildebrand	McElroy	Unruh
Chase	Hoghaug	Miller	Wallin
Engelter	Hougen	Nothing	

Absent and not voting:

Butler	Trenbeath	Warner	Mr. President
Devine	Tudor		

So the proposal lost.

Delegate Omdahl moved that Committee Proposal 1-80 be referred to the Committee on Preamble, Bill of Rights and Suffrage, which motion was then withdrawn.

Delegate Decker moved that the Convention reconsider the action by which Committee Proposal 1-80 was lost, which motion prevailed.

Delegate Decker moved to amend Committee Proposal 1-80 as follows:

Delete lines 1 through 5 inclusive, and insert in lieu thereof the following:

That section 208 of the constitution of the state of North Dakota be repealed; and that a new section to the constitution of the state of North Dakota be created; both of which pertain to the right of debtors.

SECTION 1. REPEAL.) Section 208 of the constitution of the state of North Dakota is hereby repealed.

SECTION 2.) A new section to the constitution of the state of North Dakota is hereby created to read as follows:

The legislature shall provide for the rights of debtors and shall provide that the heads of families shall be exempt from a forced sale of a homestead and a reasonable amount of personal property.

The legislature shall define by law the kind and value of such property to be so exempt. This section shall not be construed to prevent liens against a homestead for labor done and materials furnished for its improvement, in such manner as may be prescribed by law.

Which motion prevailed.

Delegate Decker moved that the rules be suspended, and that Committee Proposal 1-80 be deemed properly re-engrossed and placed on the calendar for first passage.

Delegate Lamb moved that Committee Proposal 1-80 be amended as follows:

In line 11 of the amended proposal, after the word "that" insert the following: "single persons and"

In line 11 of the engrossed proposal preceding the word "heads" delete the word "the"

And renumber the lines accordingly.

Which motion prevailed.

Delegate Kelsch moved to amend Committee Proposal 1-80 as follows:

On the amended engrossed proposal, delete lines 14 through 18 inclusive

Which motion failed.

The question then was on Delegate Decker's motion to suspend the rules, and that Committee Proposal 1-80 be deemed properly re-engrossed and placed on the calendar for first passage.

Which motion prevailed.

FIRST READING OF PROPOSALS

Committee Proposal No. 1-80. Be it resolved by the North Dakota Constitutional Convention that section 208 of the constitution of the state of North Dakota be repealed.

Which has been read.

ROLL CALL

The question being on the first passage of the proposal, as amended, the roll was called and there were ayes, 91; nays, 3; absent and not voting, 4.

Those voting in the affirmative were:

Aas	Dobson	Ketchum	Quam
Aubol	Engelter	Knudson	Rosendahl
Baker	Engstrom	Kretschmar	Rude
Bassingthwaite	Erickson	Kwako	Rundle
Bender	Fallgatter	Lamb	Sanstead
Benson	Fiedler	Lander	Saugstad
Benz	Fritzell	Larsen	Scheel
Berg	Geelan	Lerberg	Schmit
Billey	Gipp	Litten	Simonson
Binek	Griffin	Longmire	Sinner
Birkeland	Hardmeyer	McElroy	Solberg
Brakke	Haugen	McIntyre	Sondreal
Burbidge	Hendrickson	Meidinger	Stanton
Burke	Hernett	Miller	Sullivan
Byrne	Hildebrand	Nething	Trenbeath
Cart	Hill	Nicholas	Unruh
Chase	Hoffner	O'Toole	Urdahl
Christensen	Hoghaug	Omdahl	Vogel
Daniels	Hougen	Paulson	Wallin
Dawson	Hubrig	Pearce	Warner
Decker	Jestrab	Peters	Wicks
Devine	Kelsch	Peterson	Mr. President
Diehl	Kessel	Poulson	

Those voting in the negative were:

Hartl Huckle Maxwell

Absent and not voting:

Butler Roney Thompson Tudor

So the proposal passed and the title was agreed to, and Committee Proposal 1-80 was referred to the Committee on Style and Drafting.

MOTION

Delegate Nething moved that Committee Proposal 1-60 be placed at the head of the calendar, which motion prevailed.

FIRST READING OF PROPOSALS

Committee Proposal No. 1-60. Be it resolved by the North Dakota Constitutional Convention that section 8 of the constitution of the

state of North Dakota be repealed; and that a new section to the constitution of the state of North Dakota be created; both of which pertain to indictment and information.

Which has been read.

Delegate Nething moved that Committee Proposal 1-60 be amended as follows:

On line 12 of the engrossed proposal delete the second comma and insert in lieu thereof a period and delete the word "when"

On line 13 delete the following: "in actual service in time of war or public danger."

Renumber the lines accordingly.

Which motion prevailed.

Delegate Nething moved that the rules be suspended, and that Committee Proposal 1-60 be deemed properly re-engrossed and placed on the calendar for first passage, which motion prevailed.

ROLL CALL

The question being on the first passage of the proposal, as amended, the roll was called and there were ayes, 90; nays, 0; absent and not voting, 8.

Those voting in the affirmative were:

Aas	Engelter	Knudson	Poulson
Aubol	Engstrom	Kretschmar	Roney
Baker	Erickson	Kwako	Rosendahl
Bassingthwaite	Fallgatter	Lamb	Rude
Bender	Fiedler	Lander	Rundle
Benson	Fritzell	Larsen	Sanstead
Benz	Geelan	Lerberg	Saugstad
Berg	Gipp	Litten	Scheel
Billey	Griffin	Longmire	Simonson
Binek	Hardmeyer	McElroy	Sinner
Brakke	Hartl	McIntyre	Solberg
Burbidge	Haugen	Maxwell	Sondreal
Burke	Hendrickson	Meidinger	Stanton
Byrne	Hernett	Miller	Sullivan
Cart	Hill	Nething	Thompson
Chase	Hoffner	Nicholas	Trenbeath
Christensen	Hoghaug	O'Toole	Unruh
Daniels	Hougen	Omdahl	Urdahl
Dawson	Huckle	Paulson	Vogel
Decker	Jestrab	Pearce	Warner
Devine	Kelsch	Peters	Wicks
Diehl	Kessel	Peterson	Mr. President
Dobson	Ketchum		

Absent and not voting:

Birkeland	Hildebrand	Quam	Tudor
Butler	Hubrig	Schmit	Wallin

So the proposal passed and the title was agreed to, and Committee Proposal 1-60 was referred to the Committee on Style and Drafting.

The Chair declared a ten minute recess.

The Convention re-convened with President Wenstrom presiding.

FIRST READING OF PROPOSALS

Committee Proposal No. 1-96. Be it resolved by the North Dakota Constitutional Convention that section 185 of the constitution of the state of North Dakota be repealed; and that a new section to the constitution of the state of North Dakota be created; both of which pertain to public business.

Which has been read.

Delegate Chase moved that Committee Proposal 1-96 be amended as follows:

On line 12, delete the following language: "but only for the purpose of providing public"

On line 13, delete the word "services"

And renumber the lines accordingly.

Which motion failed on a division vote.

ROLL CALL

The question being on the first passage of the proposal, the roll was called and there were ayes, 69; nays, 27; absent and not voting, 2.

Those voting in the affirmative were:

Aas	Engstrom	Jestrab	Pearce
Baker	Erickson	Kelsch	Peters
Bender	Fallgatter	Kessel	Poulson
Benson	Fiedler	Ketchum	Quam
Benz	Fritzell	Knudson	Roney
Berg	Geelan	Kretschmar	Rundle
Billey	Griffin	Kwako	Saugstad
Binek	Hardmeyer	Lander	Scheel
Burbidge	Hartl	Lerberg	Simonson
Burke	Haugen	Litten	Solberg
Byrne	Hendrickson	Longmire	Stanton
Cart	Hernett	McElroy	Thompson
Christensen	Hildebrand	McIntyre	Trenbeath
Dawson	Hill	Meidinger	Unruh
Decker	Hoghaug	Miller	Wallin
Devine	Hougen	Nething	Wicks
Diehl	Huckle	Nicholas	Mr. President
Dobson			

Those voting in the negative were:

Aubol	Gipp	Omdahl	Sinner
Bassingthwaite	Hoffner	Paulson	Sondreal
Birkeland	Hubrig	Peterson	Sullivan
Brakke	Lamb	Rosendahl	Urdahl
Chase	Larsen	Rude	Vogel
Daniels	Maxwell	Sanstead	Warner
Engelter	O'Toole	Schmit	

Absent and not voting:

Butler Tudor

So the proposal passed and the title was agreed to, and Committee Proposal 1-96 was referred to the Committee on Style and Drafting.

Committee Proposal No. 1-101. Be it resolved by the North Dakota Constitutional Convention that section 139 of the constitution of the state of North Dakota be repealed.

Which has been read.

Delegate Litten moved that Committee Proposal 1-101 be amended as follows:

On page 1, of the engrossed proposal, line 2 of the title, delete the period and insert in lieu thereof the following: "; and that article XVII to the constitution of the state of North Dakota be created, both of which pertain to public utilities."

On page 1, line 6, add the following new section:

"SECTION 2.) Article XVII to the constitution of the state of North Dakota is hereby created to read as follows:

**ARTICLE XVII
PUBLIC UTILITIES**

Section 1. No law shall be passed by the legislative assembly granting the right to construct or operate any public utility or similar service within any city without requiring the consent of the governing body of that city."

And renumber the lines accordingly.

Delegate Rundle moved to amend the proposed amendment as follows:

Under Article XVII Public Utilities, Section 1., following the words "to construct" delete the word "or" and substitute in lieu thereof the word "and"

Which motion prevailed.

Delegate Sinner moved to amend the proposed amendment as follows:

Under Article XVII Public Utilities, Section 1., following the words "any city" insert "or county" and following the words "that city" insert the words "or county"

Which motion failed.

The question then was on the adoption of the amendment as offered by Delegate Litten, which motion prevailed on a division vote.

Delegate Litten moved that the rules be suspended, and that Committee Proposal 1-101 be deemed properly re-engrossed and placed on the calendar for first passage, which motion prevailed.

Delegate Aubol moved to amend Committee Proposal 1-101 as follows:

In the re-engrossed Committee Proposal, after the words "that city" in the final sentence insert the following: "**provided, however, that no public utility or similar service shall have its property taken without receiving just compensation for the loss of business and for the loss in physical facilities.**"

Which motion failed.

ROLL CALL

The question being on the first passage of the proposal, as amended, the roll was called and there were ayes, 63; nays, 32; absent and not voting, 3.

Those voting in the affirmative were:

Aas	Engelter	Knudson	Quam
Baker	Engstrom	Kretschmar	Roney
Bender	Erickson	Kwako	Rude
Benson	Fallgatter	Lander	Rundle
Benz	Fritzell	Lerberg	Saugstad
Berg	Griffin	Litten	Scheel
Billey	Hartl	Longmire	Solberg
Binek	Hendrickson	McElroy	Stanton
Burbidge	Hernett	Meidinger	Sullivan
Byrne	Hoghaug	Miller	Thompson
Cart	Hougen	Nething	Trenbeath
Christensen	Huckle	Nicholas	Unruh
Dawson	Jestrab	Paulson	Wallin
Decker	Kelsch	Pearce	Wicks
Devine	Kessel	Peters	Mr. President
Diehl	Ketchum	Poulson	

Those voting in the negative were:

Aubol	Fiedler	Lamb	Sanstead
Bassingthwaite	Geelan	Larsen	Schmit
Birkeland	Gipp	McIntyre	Simonson
Brakke	Hardmeyer	Maxwell	Sinner

Burke	Haugen	O'Toole	Sondreal
Chase	Hildebrand	Omdahl	Urdahl
Daniels	Hill	Peterson	Vogel
Dobson	Hoffner	Rosendahl	Warner

Absent and not voting:

Butler	Hubrig	Tudor
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So the proposal passed and the title was agreed to, and Committee Proposal 1-101 was referred to the Committee on Style and Drafting.

FIRST READING OF PROPOSALS

Committee Proposal No. 1-57. Be it resolved by the North Dakota Constitutional Convention that a new section to the constitution of the state of North Dakota, which pertains to equal enjoyment of public accommodations, be created.

Which has been read.

Delegate Dobson moved to amend Committee Proposal 1-57 as follows:

In line 10, delete "sex"

Which motion prevailed.

Delegate Dobson moved that the rules be suspended, and that Committee Proposal 1-57 be deemed properly engrossed and placed on the calendar for first passage, which motion prevailed.

ROLL CALL

The question being on the first passage of the proposal, as amended, the roll was called and there were ayes, 86; nays, 9; absent and not voting, 3.

Those voting in the affirmative were:

Aas	Erickson	Knudson	Poulson
Baker	Fallgatter	Kretschmar	Quam
Bender	Fiedler	Kwako	Roney
Benson	Fritzell	Lamb	Rosendahl
Benz	Geelan	Lander	Rude
Berg	Gipp	Larsen	Rundle
Billey	Griffin	Lerberg	Sanstead
Binek	Hardmeyer	Litten	Saugstad
Birkeland	Haugen	Longmire	Scheel
Brakke	Hendrickson	McElroy	Schmit
Burbidge	Hernett	McIntyre	Simonson
Burke	Hildebrand	Maxwell	Stanton
Byrne	Hill	Meidinger	Sullivan
Cart	Hoffner	Miller	Thompson
Chase	Hoghaug	Nething	Trenbeath
Christensen	Hougen	Nicholas	Unruh
Daniels	Hubrig	O'Toole	Urdahl
Dawson	Huckle	Omdahl	Vogel
Decker	Jestrab	Paulson	Wallin
Diehl	Kelsch	Pearce	Warner
Dobson	Kessel	Peters	Mr. President
Engstrom	Ketchum		

Those voting in the negative were:

Aubol	Engelter	Peterson	Sondreal
Bassingthwaite	Hartl	Solberg	Wicks
Devine			

Absent and not voting:

Butler	Sinner	Tudor
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So the proposal passed and the title was agreed to, and Committee Proposal 1-57 was referred to the Committee on Style and Drafting.

EXPLANATION OF VOTE

Delegate Aubol:

"Mr. President, I would like to explain my vote on 1-57. I voted no not because I am against the concept of non-discrimination, but because the Constitution now allows for discrimination on the basis of sex."

Delegate Sondreal:

"My vote was not on discrimination, but on the deletion of the word sex."

MOTION

Delegate Thompson moved that Committee Proposal 1-89 be placed at the head of the calendar, which motion prevailed.

FIRST READING OF PROPOSALS

Committee Proposal No. 1-89. Be it resolved by the North Dakota Constitutional Convention that section 14 of the constitution of the state of North Dakota be repealed; and that a new section to the constitution of the state of North Dakota be created; both of which pertain to eminent domain.

Which has been read.

Delegate Thompson moved that Committee Proposal 1-89 be amended as follows:

Delete everything after line 9 of the engrossed proposal and insert in lieu thereof the following:

Private property shall not be taken or damaged for necessary public use without protecting the property rights of the owner and the interests of the general public and without just compensation having first been made to the owner for all damages.

The legislative assembly may provide by law for the taking of property for right-of-way purposes for transportation, communication, and transmission of power for public service and provide the procedure and time limit for determination of damages, necessity, and public use.

Delegate Baker moved that Committee Proposal 1-89 be indefinitely postponed, which motion was ruled out of order.

Question then was on the motion of Delegate Thompson to amend Committee Proposal 1-89, which motion prevailed.

Delegate Geelan moved that the rules be suspended, and that Committee Proposal 1-89 be deemed properly re-engrossed and placed on the calendar for first passage, which motion failed on a division vote.

President Wenstrom announced the Convention would stand recessed for ten minutes.

The Convention reconvened with President Wenstrom presiding.

MOTIONS

Delegate Hartl moved that Committee Proposal 1-82 be placed at the foot of the calendar, which motion prevailed.

Delegate Hoffner moved that Committee Proposal 1-29 be placed at the foot of the calendar, which motion prevailed.

FIRST READING OF PROPOSALS

Committee Proposal No. 1-38. Be it resolved by the North Dakota Constitutional Convention that sections 37 and 39 of Article II and Article 51 of the amendments to of the constitution of the state of North Dakota be repealed; and that section 7 of Article II to the constitution of the state of North Dakota be created; all of which pertain to restrictions on the office-holding capabilities of state legislators.

Which has been read.

Delegate Haugen moved that Committee Proposal 1-38 be amended as follows:

Delete lines 14 through 21, inclusive, of the engrossed proposal and insert in lieu thereof the following:

Section 7. While serving in the legislative assembly no member may hold any full time elective state or political subdivision office nor hold any full time appointive state office established by this constitution or designated by law. During the term of office for which he was elected, no legislator shall be appointed to any office which has been created, or for which the compensation has been increased, by the legislative assembly during that term.

And renumber the lines accordingly.

Which motion prevailed.

Delegate Haugen moved that the rules be suspended, and that Committee Proposal 1-38 be deemed properly re-engrossed and placed on the calendar for first passage, which motion prevailed.

ROLL CALL

The question being on the first passage of the proposal, as amended, the roll was called and there were ayes, 83; nays, 12; absent and not voting, 3.

Those voting in the affirmative were:

Aas	Devine	Huckle	Quam
Aubol	Diehl	Kessel	Roney
Baker	Dobson	Ketchum	Rosendahl
Bassingthwaite	Engelter	Knudson	Rude
Bender	Engstrom	Lamb	Rundle
Benson	Erickson	Lander	Sanstead
Benz	Fallgatter	Larsen	Saugstad
Berg	Fiedler	Lerberg	Scheel
Billey	Fritzell	Litten	Schmit
Binek	Geelan	Longmire	Simonson
Birkeland	Gipp	Maxwell	Sinner
Brakke	Griffin	Meidinger	Solberg
Burbidge	Hardmeyer	Miller	Sondreal
Burke	Hartl	Nothing	Sullivan
Byrne	Haugen	Nicholas	Thompson
Cart	Hendrickson	O'Toole	Trenbeath
Chase	Hernett	Omdahl	Unruh
Christensen	Hildebrand	Pearce	Wallin
Daniels	Hill	Peters	Warner
Dawson	Hoffner	Peterson	Mr. President
Decker	Hougen	Poulson	

Those voting in the negative were:

Hoghaug	Kretschmar	McIntyre	Urdahl
Hubrig	Kwako	Paulson	Vogel
Jestrab	McElroy	Stanton	Wicks

Absent and not voting:

Butler	Kelsch	Tudor
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So the proposal passed and the title was agreed to, and Committee Proposal 1-38 was referred to the Committee on Style and Drafting.

MOTIONS

Delegate Haugen moved that Committee Proposals 1-74 and 1-87 be placed at the foot of the calendar, which motion prevailed.

Delegate Thompson moved that Committee Proposal 1-86 be placed at the foot of the calendar, which motion prevailed.

Delegate Omdahl moved that the rules be suspended, and that Committee Proposal 1-89 be moved to the head of the calendar, which motion prevailed.

Committee Proposal No. 1-89. Be it resolved by the North Dakota Constitutional Convention that section 14 of the constitution of the state of North Dakota be repealed; and that a new section to the constitution of the state of North Dakota be created; both of which pertain to eminent domain.

Which has been read.

Delegate Omdahl moved that Committee Proposal 1-89 be amended as follows:

Delete everything after line 9 of the engrossed proposal 1-89 and insert in lieu thereof the following:

Private property shall not be taken or damaged for necessary public use without protecting the property rights of the owner and the interests of the general public and without just compensation having first been made to the owner for all damages.

The legislative assembly may provide by law for the taking of property for right-of-way purposes for transportation, communication, and transmission of power for public service by depositing estimated just compensation into court for the owner. The legislative assembly shall provide the procedure and time limit for determination of damages, necessity, and public use in such cases.

Delegate Longmire moved to amend the amendment to the engrossed Committee Proposal 1-89 as follows:

In the second paragraph of the amendment, after the words "**just compensation**" add the following: "**for all damages**"

Which motion prevailed.

Delegate Omdahl moved to further amend the amendment to Committee Proposal 1-89, as follows

In the second paragraph of the amendment, first line, delete the word "**The**" and insert in lieu thereof the words "**However, the**"

Which motion prevailed.

The question then was on the motion to adopt the amendment as amended, which motion prevailed on a division vote.

MOTION

Delegate Hoffner moved that Committee Proposal 1-44 be placed on the calendar immediately following Committee Proposal 1-29, which motion prevailed.

Delegate Saugstad moved that all absent Delegates be excused, which motion prevailed.

Delegate Saugstad moved that the Convention be adjourned until 9:00 a.m., February 2, 1972, which motion prevailed.

ROY GILBREATH, Chief Clerk