

## ELEVENTH DAY

Bismarck, January 17, 1972

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

Prayer was offered by Rev. Carl E. Perry, Pastor, Evangel Temple, Bismarck.

"O Lord God, Creator of the universe and Maker of man, it is with humble hearts and bowed heads that we stand before Thee this day. We acknowledge Thy Greatness, and confess our inadequacies. Help us to remember the words of Solomon, king of your people Israel. 'In all thy ways acknowledge the Lord, and He shall direct thy Paths.' (Proverbs 3:6)

"And from James, the Moderator over the affairs of the Church at Jerusalem, who said, 'If any of you lack wisdom, let him ask of God, that giveth to all men liberally, and upbraideth not; and it shall be given him.' (James 1:5) For truly we know there is no rhetoric like that of the heart.

"Again, it was the man after your own heart, David, who declared, 'Except the Lord build the house, they labour in vain that build it; except the Lord keep the city, the watchman waketh but in vain.' (Psalm 127:1) Grant to us the understanding to see that without your assistance our efforts become nil.

"For these reasons we come to Thee today, and implore your divine blessing and direction upon these to whom great responsibility has been intrusted. For what these delegates decide today and the remaining days of this Constitutional Convention, will visibly and trumatically affect us for years and generations to come. We pray Thee, O Holy Spirit, give to each delegate wisdom and freedom to express his conviction and bring this body to a unity of purpose and decision which will give the citizens of the sovereign state of North Dakota fair and equal. For this we ask, in the name of God, our Father, Jesus Christ, our Savior, and the Holy Spirit our Baptizer! Amen."

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

A quorum was declared by the President.

## REVISION AND CORRECTION OF THE JOURNAL

Mr. President: Your Committee on Revision and Correction of the Journal has carefully examined the Journal of the 13th day of January, 1972 and recommends that the same be corrected as follows:

On page 171, in line 50, preceding the word "moved" insert the name "Daniels"

And when so corrected recommends that the same be approved.

DELEGATE SIMONSON, Chairman

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

CONSIDERATION OF AMENDMENTS

Delegate Haugen has moved that the amendments to Proposal 1-23 as recommended by the Committee on Finance and Taxation and as printed on page 178 of the Journal be adopted, which motion prevailed.

FIRST READING OF PROPOSALS

**Committee Proposal No. 1-40.** Be it resolved by the North Dakota Constitutional Convention that section 28 of Article II to the constitution of the state of North Dakota, which pertains to the office of auditor general, be created.

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, 94; nays, 1; absent and not voting, 3.

Those voting in the affirmative were:

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

Those voting in the negative were:

Rundle

Absent and not voting:

Baker                      Benz                      Tudor

So the proposal passed and the title was agreed to.

**Committee Proposal No. 1-56.** Be it resolved by the North Dakota Constitutional Convention that section 213 of the constitution of the state of North Dakota, which pertains to property rights of women, be repealed.

Which has been read.

ROLL CALL

The question being on the first passage of the proposal, the roll was called and there were ayes, 94; nays, 1; absent and not voting, 3.

Those voting in the affirmative were:

Aas	Engstrom	Knudson	Quam
Aubol	Erickson	Kretschmar	Roney
Bassingthwaite	Fallgatter	Kwako	Rosendahl
Bender	Fiedler	Lamb	Rude
Benson	Fritzell	Lander	Sanstead
Berg	Geelan	Larsen	Saugstad

Billey	Gipp	Lerberg	Scheel
Binek	Griffin	Litten	Schmit
Birkeland	Hardmeyer	Longmire	Simonson
Brakke	Hartl	McElroy	Sinner
Burbidge	Haugen	McIntyre	Solberg
Burke	Hendrickson	Maxwell	Sondreal
Butler	Hernett	Meidinger	Stanton
Byrne	Hildebrand	Miller	Sullivan
Cart	Hill	Nething	Thompson
Chase	Hoffner	Nicholas	Trenbeath
Christensen	Hoghaug	O'Toole	Unruh
Daniels	Hougen	Omdahl	Urdahl
Dawson	Hubrig	Paulson	Vogel
Decker	Huckle	Pearce	Wallin
Devine	Jestrab	Peters	Warner
Diehl	Kelsch	Peterson	Wicks
Dobson	Kessel	Poulson	Mr. President
Engelter	Ketchum		

Those voting in the negative were:  
Rundle

Absent and not voting:  
Baker                      Benz                      Tudor

So the proposal passed and the title was agreed to.

**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 Sinner moved that Proposal 1-57 be re-referred to the Committee on Preamble, Bill of Rights and Suffrage, which motion prevailed.

**Committee Proposal No. 1-58.** Be it resolved by the North Dakota Constitutional Convention that section 5 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 release from unlawful detention or imprisonment.

Which has been read.

Delegate Geelan moved that Proposal 1-58 be amended as follows:

In line 10, delete the underlining under the words "HABEAS CORPUS"

Which motion prevailed.

Mrs. Geelan moved that the rules be suspended, that Proposal 1-58 be deemed properly engrossed, and placed on the calendar for first passage, which motion prevailed.

Delegate Geelan moved that Committee Proposal 1-58 be further amended as follows:

In line 12 of the engrossed bill, delete the word "policy" and insert in lieu thereof the word "safety"

Which motion prevailed.

Delegate Geelan moved that Committee Proposal 1-58 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, 73; nays, 18; absent and not voting, 7.

Those voting in the affirmative were:

Aas	Engelter	Kessel	Roney
Aubol	Engstrom	Ketchum	Rosendahl

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Bassingthwaite	Erickson	Kretschmar	Rude
Bender	Fallgatter	Lamb	Sanstead
Berg	Fiedler	Lerberg	Scheel
Billey	Fritzell	Litten	Schmit
Binek	Geelan	Longmire	Simonson
Birkeland	Gipp	McElroy	Sinner
Brakke	Griffin	McIntyre	Solberg
Burbidge	Hardmeyer	Maxwell	Sondreal
Butler	Hartl	Meidinger	Sullivan
Byrne	Hendrickson	Miller	Thompson
Chase	Hill	Nething	Trenbeath
Christensen	Hoffner	Nicholas	Urdahl
Daniels	Hoghaug	O'Toole	Wallin
Dawson	Hougen	Paulson	Warner
Decker	Hubrig	Peterson	Wicks
Diehl	Huckle	Quam	Mr. President
Dobson			

Those voting in the negative were:

Benson	Kelsch	Omdahl	Saugstad
Cart	Knudson	Peters	Stanton
Devine	Kwako	Poulson	Unruh
Hernett	Lander	Rundle	Vogel
Jestrab	Larsen		

Absent and not voting:

Baker	Burke	Hildebrand	Tudor
Benz	Haugen	Pearce	

So the proposal passed and the title was agreed to.

**Committee Proposal No. 1-59.** Be it resolved by the North Dakota Constitutional Convention that section 9 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 freedom of press.

Which has been read.

ROLL CALL

The question being on the first passage of the proposal, the roll was called and there were ayes, 92; nays, 0; absent and not voting, 6.

Those voting in the affirmative were:

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

Absent and not voting:

Baker	Burke	Tudor	Wallin
Benz	Hildebrand		

So the proposal passed and the title was agreed to.

**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 Thompson moved that Committee Proposal 1-60 be re-referred to the Committee on Preamble, Bill of Rights and Suffrage, which motion prevailed.

**Committee Proposal No. 1-61.** Be it resolved by the North Dakota Constitutional Convention that section 16 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 bills of attainder and ex post facto laws and non impairment of obligations of contracts.

Which has been read.

**ROLL CALL**

The question being on the first passage of the proposal, the roll was called and there were ayes, 22; nays, 69; absent and not voting, 7.

Those voting in the affirmative were:

Bender	Decker	Lamb	Schmit
Birkeland	Fiedler	Lerberg	Sinner
Brakke	Geelan	McIntyre	Sondreal
Burbidge	Haugen	Maxwell	Urdahl
Daniels	Hendrickson	O'Toole	Mr. President
Dawson	Hubrig		

Those voting in the negative were:

Aubol	Fritzell	Kwako	Roney
Bassingthwaite	Griffin	Lander	Rosendahl
Benson	Hardmeyer	Larsen	Rude
Berg	Hartl	Litten	Rundle
Billey	Hernett	Longmire	Sanstead
Binek	Hildebrand	McElroy	Saugstad
Butler	Hill	Meidinger	Scheel
Byrne	Hoffner	Miller	Simonson
Cart	Hoghaug	Nething	Solberg
Chase	Hougen	Nicholas	Stanton
Christensen	Huckle	Omdahl	Sullivan
Devine	Jestrab	Paulson	Thompson
Diehl	Kelsch	Pearce	Unruh
Dobson	Kessel	Peters	Vogel
Engelter	Ketchum	Peterson	Wallin
Engstrom	Knudson	Poulson	Warner
Erickson	Kretschmar	Quam	Wicks
Fallgatter			

Absent and not voting:

Aas	Benz	Gipp	Tudor
Baker	Burke	Trenbeath	

So the proposal lost.

**MOTION**

Delegate Omdahl moved that Committee Proposal 1-61 be re-referred to the Committee on Preamble, Bill of Rights and Suffrage, which motion prevailed.

President Wenstrom declared a fifteen minute recess.

The Convention re-convened, with President Wenstrom presiding.

## REPORT OF PROCEDURAL COMMITTEES

Mr. President: Your Procedural Committee on Rules appointed to review and recommend changes in the temporary rules has had the same under consideration and recommends that the temporary rules of the Convention be amended as follows:

## Rule 18.2. ALTERNATE PROPOSALS

**An alternate proposal covering the same subject for incorporation in the final constitutional draft may not be introduced until three Convention days after first passage of a proposal covering the same subject, except that the three-day limitation shall not apply after the twenty-second Convention day.**

**At least twenty delegates shall be required to introduce an alternate proposal which shall be filed with the clerk.**

**The limitation on the time for introduction of proposals as provided by Rule 18 shall not apply to alternate proposals.**

**Before floor consideration of an alternate proposal, it shall be first referred to a Committee on Constitutional Ballot, which committee shall be comprised of 15 delegates to be selected as follows:**

**1. Two delegates shall be elected from each of the six substantive committees.**

**2. Three delegates shall be appointed at large by the President.**

**The Constitutional Ballot Committee members shall select their chairman and vice chairman.**

**The committee shall prepare and submit to the Convention for its approval a ballot form which shall set forth a method by which alternate proposals may be submitted to the electorate.**

**The committee shall consider each alternate proposal referred to it and shall report its recommendation to the Convention as follows:**

**1. That the proposal should not be submitted as an alternate, or**

**2. That the proposal should be submitted as an alternate.**

**If the committee report is to submit the proposal as an alternate, it shall also specify the form of the question to be submitted to the electorate.**

**If the committee report is that the proposal not be submitted as an alternate, and the report is accepted, the proposal shall be deemed to be indefinitely postponed.**

**If the committee report is for submitting the alternate proposal to the electorate and the report is accepted, the alternate proposal along with the form in which it shall be submitted shall thereafter follow the same procedure as a proposal placed on first reading and passage.**

Delegate Hoffner moved that Rule 18.2 Alternate Proposals be amended as follows:

Line 1, of Paragraph 2, following the word "delegates" insert the following: "or two-thirds vote of a substantive committee" which motion prevailed.

Delegate Kelsch moved the adoption of Rule 18.2 as amended, which motion prevailed.

## Rule 19. ORDER OF CONSIDERATION OF PROPOSALS AND FINAL DRAFT

The regular order to be taken by proposals introduced in the Convention shall be as follows:

1. Introduction and reference to a committee or committees by the President, and reproduction and distribution in a manner and amount as ordered by the President unless otherwise ordered by a majority of the delegates voting.

2. Report of committee and action of the Convention on the committee report.
3. Placing proposal on calendar, first reading and action of Convention on first passage.
4. Reference to the Committee on Style and Drafting **which shall not require Convention action.**
5. Report of Committee on Style and Drafting and action of the Convention on the report.
6. If the adopted committee report calls for any revision, second reading and vote on second passage.
7. Re-reference to Committee on Style and Drafting for incorporation in final draft **which shall not require Convention action.**
8. Final report by Committee on Style and Drafting and acceptance of report.
9. Consideration by the Convention on final reading (((and final vote on passage))).
10. Signing the final draft by delegates.

Delegate Saugstad moved that the amendment to Rule 19, as proposed by the Report of Rules Committee, be adopted, which motion prevailed.

#### Rule 19.1. PROPOSALS IN PROCEDURAL COMMITTEES

**Proposals in the possession of procedural committees shall be deemed in the possession of the Convention.**

Delegate Saugstad moved that Rule 19.1 be adopted, which motion prevailed.

#### Rule 25. MOTIONS AND RESOLUTIONS.

**STATING MOTION AND RESOLUTIONS.** When a motion is made, it shall be stated by the President, or if in writing, it shall be handed to the clerk of the Convention and read aloud before being debated.

Every resolution shall be properly numbered, read by title, and shall be referred by the President to the appropriate committee. If the rules are suspended to permit immediate consideration of a resolution, the resolution shall be read in full before it is considered.

**REDUCED TO WRITING.** Every motion shall be reduced to writing if the President or a majority of those voting shall request it, and all motions, oral or written, shall be entered upon the journal, together with the name of the delegates making it.

**WITHDRAWAL OF MOTIONS.** After a motion has been stated by the President or read by the clerk of the Convention, it shall be deemed to be in possession of the Convention but may be withdrawn by the maker at any time before being amended or put to a vote.

**Printing of Resolutions.** Resolutions shall be read and printed in the journal. They shall not be printed as a proposal and only one enrolled copy shall be prepared unless otherwise specified in said resolution or ordered by majority vote of the Convention.

Delegate Wicks moved that the amendments to Rule 25, as presented by the Report of the Rules Committee, be adopted, which motion prevailed.

#### Rule 29. MOTION FOR RECONSIDERATION

Any delegate may move for a reconsideration of any question at the same or next two succeeding Convention days. (((or the))) The Committee on Style and Drafting may move for reconsideration on any subsequent day if notice of the intention to do so is given

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in writing to the clerk of the Convention who shall enter this notice in the journal.

The same majority shall be required to adopt a motion to reconsider as was required to take the original action.

After the same day and next two succeeding Convention days, it shall take a two-thirds vote for a motion to reconsider.

The motion for reconsideration cannot be made on the same question more than once in each Convention day.

DELEGATE GEELAN, Chairman

MOTIONS

Delegate Fallgatter moved the amendments to Rule 29, as proposed by the Report of the Rules Committee be adopted.

Delegate Lander moved that Rule 29 of the Report of the Rules Committee be amended as follows:

In Paragraph one of Rule 29, line 2, delete the words: "at the same or next two succeeding Convention days".

Delegate Geelan moved that that portion of the Report of the Rules Committee encompassing Rule 29 be re-referred to the Committee on Rules, which motion prevailed.

Rule 29 of the Report of the Committee on Rules was therefore re-referred to the Committee on Rules.

MOTION

Delegate Maxwell moved that at 9:30 a.m., Wednesday, January 19, the Convention go on the 5th Order of Business for the purpose of hearing the Committee Report on Committee Proposal 1-53, which motion prevailed.

FIRST READING OF PROPOSALS

Committee Proposal No. 1-62. Be it resolved by the North Dakota Constitutional Convention that section 15 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 not being imprisoned for debt.

Which has been read.

ROLL CALL

The question being on the first passage of the proposal, the roll was called and there were ayes, 78; nays, 15; absent and not voting, 5.

Those voting in the affirmative were:

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



Those voting in the negative were:

Binek	Devine	Kessel	Simonson
Butler	Fritzell	Miller	Solberg
Cart	Hartl	Nething	Stanton
Chase	Jestrab	Peterson	

Absent and not voting:

Baker	Burke	Sanstead	Tudor
Benz			

So the proposal passed and the title was agreed to.

**Committee Proposal No. 1-63.** Be it resolved by the North Dakota Constitutional Convention that section 18 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 search and seizure.

Which has been read.

**ROLL CALL**

The question being on the first passage of the proposal, the roll was called and there were ayes, 51; nays, 42; absent and not voting, 5.

Those voting in the affirmative were:

Aubol	Engstrom	Lamb	Scheel
Bassingthwaite	Fiedler	Lerberg	Schmit
Bender	Geelan	Longmire	Sinner
Berg	Gipp	McIntyre	Solberg
Billey	Hardmeyer	Maxwell	Sondreal
Birkeland	Haugen	Nicholas	Sullivan
Brakke	Hendrickson	O'Toole	Thompson
Burbidge	Hildebrand	Omdahl	Urdahl
Chase	Hill	Rosendahl	Vogel
Daniels	Hubrig	Rude	Wallin
Decker	Huckle	Rundle	Warner
Dobson	Jestrab	Sanstead	Mr. President
Engelter	Kelsch	Saugstad	

Those voting in the negative were:

Aas	Fallgatter	Kwako	Peters
Benson	Fritzell	Lander	Peterson
Binek	Griffin	Larsen	Poulson
Butler	Hartl	Litten	Quam
Byrne	Hernett	McElroy	Roney
Cart	Hoghaug	Meidinger	Simonson
Christensen	Hougen	Miller	Stanton
Dawson	Kessel	Nething	Trenbeath
Devine	Ketchum	Paulson	Unruh
Diehl	Knudson	Pearce	Wicks
Erickson	Kretschmar		

Absent and not voting:

Baker	Burke	Hoffner	Tudor
Benz			

So the proposal passed and the title was agreed to.

**EXPLANATION OF VOTE**

Delegate Unruh explained his vote on Committee Proposal 1-63: "While 42 voted against this, by its passage we are tending to coddle criminals, and therefore I voted No, and I hope this vote is an indication to the committee that this is not a mandate."

**MOTIONS**

Delegate Unruh moved that Committee Proposal 1-63 be re-referred to the Committee on Preamble, Bill of Rights and Suffrage, which motion was then withdrawn.

Delegate Dobson moved that the Convention reconsider the action by which Committee Proposal 1-25 was passed, which motion prevailed.

**FIRST READING OF PROPOSALS**

**Committee Proposal No. 1-25.** Be it resolved by the North Dakota Constitutional Convention that sections 79 and 80 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, pertaining to the veto power of the governor, be created.

Which has been read.

Delegate Dobson moved that Committee Proposal 1-25 be amended as follows:

On Page 1 of the engrossed bill, delete paragraph b), and insert in lieu thereof the following:

**b) The governor may veto a bill passed by the legislative assembly. He may, by veto, strike items in appropriation bills. Portions of the bill not vetoed shall become law.**

Delegate Hernettt moved that Committee Proposal 1-25 be laid over one convention day, which motion prevailed.

Delegate Saugstad moved that the following Proposals be referred to the Committee on Style and Drafting:

Committee Proposal No. 1-40

Committee Proposal No. 1-56

Committee Proposal No. 1-58

Committee Proposal No. 1-59

Committee Proposal No. 1-62

Committee Proposal No. 1-63

Which motion prevailed.

Delegate Christensen moved that the absent Delegates be excused, which motion prevailed.

Delegate Saugstad moved that the Convention be adjourned until 9:00 a.m., Tuesday, January 18, 1972, which motion prevailed.

ROY GILBREATH, Chief Clerk