

## NINETEENTH DAY

Bismarck, January 27, 1972

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

Prayer was offered by Rev. David Kremmer, Pastor of the Good Shepherd Lutheran Church, Bismarck.

"Heavenly Father, we come to You asking the gift of Your Holy Spirit and Your grace upon this body. We are constantly and painfully aware that without those gifts and guidance no woman or man present here is qualified or worthy to make the decisions they have been called upon to make. As imperfect representatives of an imperfect people, they are called upon to decide issues which require perfect judgment and much courage. We ask that judgment, wisdom and courage of You Lord. Make us all humble as we face the tasks You have assigned to us, and keep all those in this body constantly aware that You would have them write a constitution which provides for the good of all — the poor as well as the rich, the minority as well as the majority the uninfluential as well as the influential. This is no simple task Father, but You are no ordinary God. You make possible the impossible, and it is for that that we call upon you. Work through our consciences, our abilities, and our faith and lead us to pray with King Solomon, 'And thy servant is in the midst of thy people whom thou hast chosen, a great people, that cannot be numbered or counted for multitude. Give thy servant therefore an understanding mind to govern thy people, that I may discern between good and evil; for who is able to govern this thy great people?' Amen."

Roll was called, and all Delegates were present except Delegate Pearce.

A quorum was declared by the President.

## REPORTS OF PROCEDURAL COMMITTEES

Mr. President: Your Committee on Enrollment and Engrossment respectfully report that they have examined the following:

Committee Proposal No. 1-36

And find the same correctly re-engrossed.

DELEGATE ERICKSON, Chairman

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

Mr. President: Your Committee on Enrollment and Engrossment respectfully report that they have examined the following:

Committee Proposal No. 1-82

And find the same correctly engrossed.

DELEGATE ERICKSON, Chairman

Delegate Kwako 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 25th day of January, 1972, and finds the same to be correct.

DELEGATE SIMONSON, Chairman

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

Delegate Baker moved that Convention Rule 27 be amended as follows:

On page 33, in the second paragraph in the first line after the word "once" insert the following: "**nor for longer than five minutes**"

Which motion prevailed.

Said paragraph of Rule 27 would then read as follows:

Times Delegates May Speak. No delegate may speak more than once **nor for longer than five minutes** without leave of the President or a majority of those present and voting unless he be the mover of the matter pending or chairman of the committee that reported it, said chairman's designee or unless another delegate has yielded his time to speak or he is asked a question on the matter by another delegate. By majority vote, limits on times delegates may speak shall be suspended and shall remain suspended until the suspension is removed by majority vote.

ANNOUNCEMENT

Delegate Pearce reported his presence at the Convention.

MOTION

Delegate Saugstad moved that the Committee on Preamble, Bill of Rights and Suffrage be excused in order that they might attend a committee hearing, which motion prevailed.

Delegate Hoffner made the following motion:

1. That Proposals 1-105 through 1-113 which deal with initiative and referendum be presented at 10:00 a.m., Friday, January 28, 1972, as follows:

- a. Each will be read in numerical order.
- b. After each is read a committee member will explain the proposal.
- c. Following the reading and explanation of Proposal 1-105 through 1-113, each will then be separately open for general discussion and amendment on Tenth Order.

Which motion prevailed.

CONSIDERATION OF AMENDMENTS

Delegate Hernet has moved that the amendments to Committee Proposal 1-25, as recommended by the Committee on Executive Functions and as printed on page 296 of the Journal be adopted, which motion prevailed.

Delegate Nething moved that consideration of the amendments of Committee Proposal 1-120 immediately follow consideration of the amendments to Committee Proposal 1-26, which motion prevailed.

Delegate Hernet has moved that the amendments to Committee Proposal 1-26, as recommended by the Committee on Executive Functions and as printed on page 296 of the Journal be adopted, which motion prevailed.

Delegate Hernet has moved that the amendments to Committee Proposal 1-120, as recommended by the Committee on Executive Functions and as printed on page 297 of the Journal be adopted, which motion prevailed.

Delegate Nething moved that copies of Committee Proposals 1-25, 1-26 and 1-120 as amended be placed on the desks of the Delegates, which motion prevailed.

Delegate Hoffner has moved that the amendments to Committee Proposal 1-29, as recommended by the Committee on Legislative Functions and as printed on pages 296 and 297 of the Journal be adopted, which motion prevailed.

Delegate Haugen has moved that the amendments to Committee Proposal 1-74, as recommended by the Committee on Finance and Taxation and as printed on page 282 of the Journal be adopted, which motion prevailed.

Delegate Haugen has moved that the amendments to Committee Proposal 1-87, as recommended by the Committee on Finance and Taxation and as printed on page 283 of the Journal be adopted, which motion failed.

Delegate Longmire moved that the Convention reconsider the action by which the motion to amend Committee Proposal 1-87 failed, which motion prevailed.

The question then was on the motion to adopt amendments to Committee Proposal 1-87, which motion prevailed.

Delegate Hoffner has moved that the amendments to Committee Proposal 1-88, as recommended by the Committee on Legislative Functions and as printed on page 284 of the Journal be adopted, which motion prevailed.

President Wenstrom declared the Convention would be at ease until the Committee on Preamble, Bill of Rights and Suffrage returns to the Convention floor.

#### FIRST READING OF PROPOSALS

**Committee Proposal No. 1-100.** Be it resolved by the North Dakota Constitutional Convention that two new sections to the constitution of the state of North Dakota, both of which pertain to the executive branch of government, be created.

Which has been read.

Delegate Maxwell moved that the following remarks of Delegate Meidinger be printed in the Journal, which motion prevailed.

Delegate Meidinger:

"State governments occupy the middle ground between the national government and local governments — that level of government that bears the primary responsibility for domestic government in the United States.

"Outmoded constitutions and the outdated organization and structure of most state governments obstruct effective state and local action. Problems remain unsolved despite attempts by the federal government to fill the void with over 400 grant-in-aid programs — at a current annual cost that has reached over \$20 billion and continues to grow.

"The challenge is clear: to so structure and finance state governments that they can be responsive to the important public needs for which the constitution makes them responsible. To be responsive, states must be able to act. Responsive state and local governments and private enterprise are essential to the solution of social and economic problems and to restoring constitutional balance to federal-state relationships."

Delegate Kelsch called for a division of the question, in such manner that paragraph (b) of Section 1, pertaining to executive order, can be voted on separately.

## ROLL CALL

The question then was on the first passage of the Committee Proposal 1-100 excluding Paragraph (b) of Section 1, the roll was called and there were ayes, 94; nays, 3; absent and not voting, 1.

Those voting in the affirmative were:

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

Those voting in the negative were:

Binek	Cart	Rundle
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Absent and not voting:

Kessel

So Committee Proposal 1-100 excluding Paragraph (b) of Section 1, was passed.

Delegate Hill moved that Committee Proposal 1-100, including both that portion which passed the Convention and also Paragraph (b) of Section 1 which has yet to be considered, be re-referred to the Committee on Executive Functions, which motion prevailed.

Delegate Nething moved that Committee Proposal 1-27 be re-referred to the Committee on Executive Functions, which motion prevailed.

## FIRST READING OF PROPOSALS

**Committee Proposal No. 1-102.** Be it resolved by the North Dakota Constitutional Convention that sections 71 and 72 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; all of which pertain to the executive branch of government.

Which has been read.

Delegate Dawson moved that the following remarks of Delegates Chase, Sondreal, Scheel, Birkeland and Rude be printed in the Journal, which motion prevailed.

Delegate Chase: "Mr. President:

"Well, here goes.

"Before I explain Section A, I call the delegates' attention to a resolution passed by the Executive Functions Committee. This resolution is directed to the Committee on Coordination and Transition.

"It is the Committee's sincere hope that the Coordination and Transition Committee and the delegates of this convention will

adopt this Spirit of '76' thereby soothing any apprehension that the legislators may not have ample time to pass the necessary laws to implement this article, and more important, to clearly indicate to the candidates that they will be campaigning for these offices, and that there will not be any curtailment of the term of the office they are running for. We ask the delegates to consider the Spirit of '76' not as a part of this proposal, but an idea that will smooth out the wrinkles of the transition period.

"Section A is a brief one, so I assume you will be satisfied with a brief explanation. This I intend to do. I ask only that you hold getting your amendments typed up until you have heard all of these sections, and particularly Section D as it relates to Section A.

"The first two officials mentioned are the Governor and Lt. Governor. I imagine that almost everyone wants to elect them. The next official is the Attorney General. Here we have had two opposite points of view. One side — and this has been recommended by many — is that the Attorney General should be the legal counsel for the Executive Branch of the Government, and particularly the Governor. Now you can make a good case for this side of the argument. However, the other side of the coin recognized that the Attorney General should be the legal counsel for the Executive Branch, but also for the Legislative Branch. In fact, he should be the chief law officer for all the people of North Dakota. The latter argument has prevailed and for this reason, and the reason that this elective office does provide a powerful check and balance within the Executive Branch, we have recommended that this be an elective office.

"The Secretary of State is the chief keeper of the records of this state, and historically has been associated in protecting the rights reserved for the people in his certification of initiative and referral petitions, petitions for amendments to the constitution, preparation of ballots, certification of elections, etc. It is also beneficial to have this office as an elective one, to serve again as in internal check and balance within the Executive Department. Also, it may be desirable to have a majority of, let's say, the Industrial Committee as elective officials. So, we recommend that the office of the Secretary of State be elective.

"Now, the three Public Service Commissioners by the nature of their duties in regulating rates dealing with public utilities have a specific obligation to the public, and should therefore be elective. This would also provide additional elective officers to serve on various boards and commissions.

"Now we have been back and forth and back and forth again on the whole gamut of elective versus appointment of each of the present offices, and what may be acceptable and what may not be acceptable. We have listened, I think, to all of the major elective officials and most all of the appointive. We recognize that model constitutions and various authors' studies, commissions and so forth on executive reorganization, recommend that the Governor and Lt. Governor be elected and all other officials should be appointed.

"We think we have made a proposal here that understands that the people of this state do not want a pure cabinet system of government, but would accept a system whereby there is a proper check and balance within this branch, and whereby all the elected officials and especially the Governor would be far more visible and accountable to the public.

"The present system sets up independent departments that are free from any gubernatorial authority and in effect does create small governments within our state government. Because of this division, the Governor cannot begin to establish the program which he

ran for in election. Now, can duplication be prevented nor adequate coordination encouraged and maintained. This is evident in many ways, but especially in the meshing of state programs to the many federal grants and programs. Whether we like it or not, this has become a way of life and in order to get the most efficient use of the dollars we spend, it is almost imperative that we have careful planning and coordinated sound management at the executive level.

"In summary, there is one main objection to reducing the number of elective officials. It is that the Governor may become too powerful and build a vast political machine. It is true that the Governor under this proposal would be more powerful, have more responsibility. However, we think we have effectively dealt with this objection in proposal 1-102, by keeping some key state officials as elective, also by previous action of this convention having made the auditor a part of the legislative branch. Another very important check that has been agreed upon by this convention is the passage of a legislative section where the legislature during a biennium may recess and call itself back into session. They would very likely do this if there were anything that far wrong with the executive branch of government.

"So, with the checks and balances all over the place, there still is in this proposal a step in the right direction of sound efficient government, visible to the people in the spending of tax dollars and performance of their duties.

"Before I came down to this convention, I asked quite a few people the broad general question. 'What should we revise in our present constitution?' Most of the answers were somewhat along this line: 'I don't know what should be done. This is really what I am paying you for. You go down there and take a good hard look at our constitution. I don't want you to make a change just for the sake of making a change, but after you have made a careful study, and you think there should be some changes or revision. Then, I expect you to make them.'

"Fellow Delegates, I think that is what the Executive Functions Committee has done, not necessarily made a change for the sake of change, but have taken a good hard careful look, and we respectfully ask the delegates to this convention to take a good hard careful look and adopt proposal 1-102."

Delegate Sondreal:

"Mr. President: Our committee has assigned to me the duty of explaining Committee Proposal Number 1-102, which, as you've already heard, calls for the Governor and Lieutenant Governor to be elected jointly, with each elector casting one vote for them together, as a kind of 'executive team,' on the same ballot.

"I think that perhaps one of the most important things that can be said about the work of the Committee on Executive Functions is that it recognized a need, throughout its interim meetings, to fix in the new constitution a framework for **accountability** in executive performance. We felt that the Governor ought to be answerable to the people of North Dakota for his actions as the state's chief administrative officer. We also recognized, however, that accountability is a far-fetched goal, and an empty, high-sounding word, unless it can be applied to men in office who have been given a **commensurate authority** effectively to meet the needs of the state by implementation of a long-range and coordinated administrative program.

"Though the heart of the committee's report has to do with the creation of a comprehensive state plan and a reduction in the number of constitutionally elected executive officials, the reasoning behind the report is linked directly to a recognized need to simplify and facilitate the overall control of state administration — to as-

sure, or try to assure, that the executive branch does not any longer become frustrated with self-limiting divisions of power.

"Committee Proposal 1-102 is consistent with this reasoning, as it will automatically help to reduce the possibilities of politically motivated conflicts within the executive team. It should also enable the man holding the office of Lieutenant Governor to become a **full time** executive officer, in the nature of an administrative assistant to the Governor, rather than a kind of 'outcast on Capitol Hill' and a stranger to affairs of state, presiding over the Senate and having little responsibility and less authority in the management and control of executive government.

"The Lieutenant Governor as next in the line of succession could logically be of value to the Governor in this role as administrative assistant. As a main force in the executive branch he ought to be directly and personally responsible to the Governor.

"Further, the committee's action is consistent with that taken by the Committee on Legislative Functions, which has seen fit to remove the Lieutenant Governor from the legislature altogether in the thought that he could, and would, become a **full-time** executive officer.

"It has always seemed sensible to me that the President and Vice President of the United States are elected on the same ticket. Is it not just as logical that the two potentially most important members of the executive branch on the state level seek election together and work together in the preparation and execution of an administrative program? The entire membership of your Committee on Executive Functions feels that it is.

"The major thrust of its report, as I've tried to indicate, is to grant the executive and legislative branches coordinate authority to organize the executive departments along broad functional lines, and to give the chief executive officer in North Dakota the power to apportion administrative authority and responsibility in a way in which bureaucratic inaction at the state level can be reduced to a minimum.

"In this way as well, the Governor **would** inevitably become more accountable to the people for the organization and implementation of a comprehensive administrative program. Such an objective was basic to the committee's thinking in the preparation of its entire report.

"I do not believe that there is any persuasive argument today in favor of unnecessarily fractionalizing the administration of state government in this area, and thereby undoing the work and the philosophy of your committee.

"The Governor and Lieutenant Governor, Mr. President, ought to be elected jointly."

Delegate Scheel:

"Mr. President:

"We will refer you to Subsection C under Section 2. This is the report of the Executive Functions Committee, and in our old Constitution, it is Sections 82 and 83. That is of the 1889 Constitution. It says: 'The chief executive officer — our new section says — the chief executive offices of the principal departments, other than those elected should be appointed by the Governor and shall serve at his pleasure.'

"Now, what did the old section say? It consists of a Secretary of State who we will continue to elect, an auditor who is to be appointed as auditor general by the legislature; a treasurer who can, if the legislature so desires, be one of fifteen maximum — maximum of fifteen new departments; Superintendent of Public Instruction — this will probably come out of our present Constitutional Education Committee, and this of course could be set up as

one of the departments under reorganization of the legislature — Commissioner of Insurance, the same applies, he can be one of the fifteen departments which are set up under the reorganization by the legislature; the attorney general is to continue to be elected. I am taking these in the order they appear in the old constitution — the Commissioner of Agriculture again will be up to the legislature as one of the fifteen departments; Commissioner of Labor, the same; the Tax Commissioner, the same; the three Public Service Commissioners are to be elective, and of course the additional four principal appointed offices, highway, social service, health and fish and game department.

“Now what we propose to do is elect these. As you can see, the Governor, Lieutenant Governor, Attorney General, Secretary of State, and the three Public Service Commissioners. Half of the slate that we now elect. We propose the legislature set up a maximum of fifteen total departments including these organized along broad functional lines as an executive department. These have to be approved by the Senate by a majority vote when they are appointed in those instances where they are not elected.

“Now, we have had testimony from every one of the heads of the executive departments in our state government. Those who are elected testified pretty well that they should be re-elected with the three exceptions: one of the Public Service Commissioners felt appointment is all right; the Tax Commissioner thought the appointment was all right, and the Governor advocated appointment. And, we had, of course, the others that are now appointed, and they all preferred that they be re-appointed. If one of the arguments on re-election was that we should continue to have a system of checks and balances, we agree this is a valid argument. But, at the same time, the checks and balances should be principally between the departments, not within the department. In other words, we feel that the Executive Department shall have its checks and balances in the legislature and in the judicial system, although we do advocate the Attorney General will ride herd on behalf of the people in anything that might have a question of law in the executive branch.

“Now, the basic questions are — people ask us, if this is a long or a short ballot. Well, the committee ran the gamut of the spectrum on all sides. Well, the short ballot would be used to elect just a governor who then appoints an entire cabinet, as Delegate Chase pointed out, to the other end of the gamut, which is the long ballot in which everyone is elected, and we came out somewhat in the middle for two reasons: 1. This thing has to be approved by the voters, and 2. This will work the way we have set it up. Now, basically, the deliberative process of government is in the legislature, whether it is unicameral or bicameral. It still is the process of deliberation. But when you hand this job to the Executive Department, it is there you expect to get the job done.

“Now we can observe our government here in North Dakota, and despite what they may say, this is basically a good government. You can look at the way these various departments operate, and they do a good job, especially if you compare them with other states that are big and unwieldy. But there is a better way to have this government operate, and that is the way we propose. The proposal and the program will be solved by concert between the legislature and the executive branch. The legislature can propose reorganization, have control of the reorganization, but the executive branch can also do so. And I think that is the wish of many people. I feel this is perfectly feasible, but in every case the legislature holds the power. First, they have to finance it; and second, they have to approve every reorganizational move that the executive department wishes to make. This structure will



work better. The executive can then execute the program that the legislature lays out for it to do. This is one case where the whole is greater than the sum of the parts. And, this is the case in any good organization, this is the case in a good football team. This is the case any place where all the individuals work together. They have the sum of individual capabilities, but when you have those together as a team and they go to work, they become a whole greater team — greater than the sum of the individuals.

"In this you have to have autonomy within the department. These departments have the autonomy or there is no way to measure how they are doing. Now they have the autonomy to an extent. This is good, but beyond this we have to have coordination between the Departments and among the departments, and this is where it comes in — when the governor appoints a half a dozen individuals, they sit down and plan, counsel and start to work, you can — I can see this and I am sure the rest of the committee could see this, too — you can see this thing as this thing progresses in the course of his administration, these people become a part of a team. They will have elected members on there, and they will have appointed members on there, who don't always agree with them, but they have one commitment, and that is to make the thing work. As it works, it engenders a fever which is like a winning team or a winning administration of anything. With this structure, you will get your money's worth and more, and we ask you to accept this committee proposal."

Delegate Birkeland:

"Mr. President and Fellow Delegates:

**"Subsection D.**

"This is an entirely new concept in planning or revising state constitutions. You will not find such a provision in our **present constitution** nor will you find such a provision in **any other state constitution** to my knowledge. It is truly a **North Dakota born and reared** provision designed specifically for North Dakota and our newly revised modern constitution.

"However, because this is a new concept, I would ask my fellow Delegates not to condemn or cast an **adverse** judgment upon it until each and every Delegate here today has thoroughly considered it in its entirety. I would also ask that you consider the fact that this new proposal is very fundamental to our entire newly proposed **modified short ballot** for North Dakota.

**"Why do we need this proposal?** — This is a question that I am sure is now on your minds.

**"Let me explain —**

"In our executive article as has been mentioned by Delegate Chase, we have gone from the old long ballot to the new **modified short ballot**. We are now proposing to elect **seven** state officials instead of the present fourteen. This is in an effort to strengthen the executive department of our state government and I am sure that most of us here today are in agreement with this basic principle.

**"However,** when you do this — when you give any department more power — then it also seems advisable to provide a check on this power in some **way, shape or form.**

"And this is one of the functions of Subsection D.

"It will provide the legislature with more **flexibility** and gives them **authority** to make changes which may seem desirable in the future — authority it does not have now. This is a **safety value** feature — allowing for change and leaving the final authority in the hands of the legislature. We have heard throughout this convention that we should place our trust and confidence in our legislature by giving them **more power — more flexibility** and to

this I would agree in as much as they constantly have their finger on the pulse of the citizens of our state.

"And so in effect, we have given the executive branch more power — the power of appointment of key officials. We have also implied that with this power — the **governor** has the **responsibility** of choosing **top-notch men**, honest men with **expertise, knowledge and responsibility to the citizens of this state**. Should this **responsibility** of the Governor ever be violated — then the legislature has the power to take necessary action.

"**Further** explanation of this section — let us now look at the words — **periodic review** — in the first line. The intended purpose of these two words is an effort to remind the legislature to only make a **periodic review** of the appointed offices — not necessarily change each office at each session. The committee felt quite strongly that changes should be made only when deemed necessary to insure continued good government and not make **haphazard** changes.

"**Another** area of importance in this subsection — 'The legislature may change and **prescribe** the manner of selecting appointees' — here I wish to emphasize the word **prescribes** and so they may provide: **appointment by the Governor — election by the people — election by a Board or Commission** or even **election by themselves** and there may be other ways also.

"Also, let us take a look at another portion of this subsection — the last six words which say **not provided for in this Constitution**.

"This simply insures that the seven constitutionally elected offices — those of the

Governor

Lieutenant Governor

Attorney General

Secretary of State and

three Public Service Commissioners

can never be changed from election by the people.

"**In** summary of this subsection, which I might add, the entire majority of our Executive Functions Committee feels is so very important to the whole section, let me say in summary:

1. Subsection D strengthens the executive branch of our state government.
2. Subsection D strengthens the legislative branch.
3. Subsection D adds flexibility to the executive article.
4. Subsection D protects the electorate.
5. Subsection D will increase the salability of this new constitution to the people of North Dakota."

Delegate Rude:

"This section (e) of Committee Proposal 1-102 refers in part to Section 78 of the Executive Department in our present constitution '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.'

"In this section of our proposal we give the Governor power to make a recess or interim appointment 'If, during a recess of the senate, there is a vacancy in any office filled by appointment where confirmation is required by the senate . . .', which somewhat follows along the provision in Article 54 providing for appointments to the Board of Higher Education during the interim.

"In our proposal this is a temporary appointment until the next meeting of the senate, when the Governor shall make a nomination to fill such office. So limited, the section is substantially self-

explanatory. It is, in short, simply a means of preventing the Governor from getting around the requirement for confirmation of his appointees. It is worth emphasizing that the last sentence in this section (e) precludes reappointment of a nominee only if the Senate rejects him. However he may be nominated again at the request of the senate. The operation of this section appears to be basic and appropriate in the matter of interim appointments."

Delegate Saugstad moved that the Convention stand recessed until 1:30 p.m., which motion prevailed.

The Convention reconvened at 1:30 p.m., with President Wenstrom presiding.

Delegate Baker moved that Committee Proposal 1-102 be amended as follows:

On page 1 of the engrossed proposal, delete lines 14 through 17, inclusive, and insert in lieu thereof the following:

**b. All officers provided in this article shall be separate and distinct, except that the legislature may provide by law for the election of the governor and the lieutenant governor on a joint ballot. Until there may be provided by law for such joint ballot, the governor and lieutenant governor shall be elected by the qualified electors of the state. The persons having the highest number of votes for governor and lieutenant governor respectively shall be declared elected. The duties of the lieutenant governor shall be prescribed by law.**

And renumber the lines accordingly.

Which motion failed.

Delegate Sinner moved that Committee Proposal 1-102 be amended as follows:

On page 2 of the engrossed proposal, in line 2, after the word "of" delete "selecting" and insert in lieu thereof "the appointment of"

Renumber the lines accordingly.

Which motion failed.

Delegate Vogel moved that Committee Proposal 1-102 be amended as follows:

In line 19, of the engrossed proposal, following the word "elected" insert the following: "or those chosen in a manner provided for in another section of this constitution"

And renumber the lines accordingly.

Which motion prevailed.

Delegate Nething moved that the rules be suspended, and that Committee Proposal 1-102 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, 75; nays, 23; absent and not voting, 0.

Those voting in the affirmative were:

Aas	Fiedler	Knudson	Poulson
Aubol	Fritzell	Kretschmar	Quam
Bassingthwaite	Geelan	Lamb	Rosendahl
Bender	Gipp	Lander	Rude
Benson	Griffin	Larsen	Sanstead
Billey	Hardmeyer	Lerberg	Scheel
Birkeland	Hartl	Litten	Schmit
Brakke	Haugen	Longmire	Simonson
Burbidge	Hendrickson	McElroy	Sinner
Burke	Hernett	McIntyre	Sondreal

Butler	Hildebrand	Maxwell	Stanton
Byrne	Hill	Meidinger	Sullivan
Chase	Hoffner	Miller	Thompson
Christensen	Hoghaug	Nothing	Tudor
Daniels	Hougen	Nicholas	Urdahl
Dawson	Hubrig	O'Toole	Vogel
Decker	Huckle	Omdahl	Wicks
Dobson	Jestrab	Paulson	Mr. President
Engstrom	Kelsch	Peterson	

**Those voting in the negative were:**

Baker	Diehl	Kwako	Solberg
Benz	Engelter	Pearce	Trenbeath
Berg	Erickson	Peters	Unruh
Binek	Fallgatter	Roney	Wallin
Cart	Kessel	Rundle	Warner
Devine	Ketchum	Saugstad	

So the proposal passed and the title was agreed to, and Committee Proposal 1-102 was referred to the Committee on Style and Drafting.

**FIRST READING OF PROPOSALS**

**Committee Proposal No. 1-114.** Be it resolved by the North Dakota Constitutional Convention that article XIX to the constitution of the state of North Dakota, which pertains to adverse possession of public lands, be created.

Which has been read.

**ROLL CALL**

The question being on the first passage of the proposal, the roll was called and there were ayes, 25; nays, 67; absent and not voting, 6.

**Those voting in the affirmative were:**

Aas	Hoffner	Lander	Poulson
Bender	Hubrig	Larsen	Sanstead
Berg	Jestrab	Litten	Simonson
Billey	Ketchum	Longmire	Sullivan
Daniels	Knudson	Meidinger	Thompson
Geelan	Kretschmar	Peterson	Vogel
Gipp			

**Those voting in the negative were:**

Aubol	Dobson	Kelsch	Rosendahl
Baker	Engelter	Kessel	Rude
Bassingthwaite	Engstrom	Kwako	Rundle
Benson	Erickson	Lamb	Saugstad
Benz	Fiedler	Lerberg	Scheel
Binek	Fritzell	McElroy	Schmit
Brakke	Griffin	McIntyre	Sinner
Burbidge	Hardmeyer	Maxwell	Sondreal
Burke	Hartl	Miller	Stanton
Butler	Haugen	Nothing	Tudor
Byrne	Hendrickson	O'Toole	Unruh
Cart	Hernett	Omdahl	Urdahl
Christensen	Hildebrand	Paulson	Wallin
Dawson	Hill	Pearce	Warner
Decker	Hoghaug	Peters	Wicks
Devine	Hougen	Quam	Mr. President
Diehl	Huckle	Roney	

**Absent and not voting were:**

Birkeland	Fallgatter	Solberg	Trenbeath
Chase	Nicholas		

So the proposal lost.

**Committee Proposal No. 1-115.** Be it resolved by the North Dakota Constitutional Convention that sections 153, 154, 155, 156, 157, 158, 160, 161, 163, 164 and 165 of the constitution of the state of North Dakota be repealed; and that article VII to the constitution of the state of North Dakota be created; all of which pertain to trust lands.

Which has been read.

Delegate Rundle moved that Committee Proposal 1-115 be amended as follows:

On page 2, line 35, following the word "funds" insert the following: "and the state shall make good all losses in such fund"

Renumber the lines accordingly.

Which motion failed.

**ROLL CALL**

The question being on the first passage of the proposal, the roll was called and there were ayes, 98; nays, 0; absent and not voting, 0.

Those voting in the affirmative were:

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

So the proposal passed and the title was agreed to, and Committee Proposal 1-115 was referred to the Committee on Style and Drafting.

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

The Convention reconvened with President Wenstrom presiding.

**FIRST READING OF PROPOSALS**

**Committee Proposal No. 1-14.** Be it resolved by the North Dakota Constitutional Convention that sections 206 and 207 of the constitution of the state of North Dakota be repealed; and that article XV to the constitution of the state of North Dakota be created; all of which pertain to state boundaries and the state seal.

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, 92; nays, 2; absent and not voting, 4.

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Those voting in the affirmative were:

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

Those voting in the negative were:

Hoghaug Maxwell

Absent and not voting:

Birkeland Dawson Kelsch Saugstad

So the proposal passed and the title was agreed to, and Committee Proposal 1-14 was referred to the Committee on Style and Drafting.

**Committee Proposal No. 1-16.** Be it resolved by the North Dakota Constitutional Convention that article VI to the constitution of the state of North Dakota, which pertains to environmental degradation, be created.

Which has been read.

Delegate Lander moved that Committee Proposal 1-16 be amended as follows:

Delete lines 14 through 18

Delegate Jestrab requested a recorded roll call vote on Delegate Landers motion to amend Committee Proposal 1-16.

**ROLL CALL**

The roll was called and there were ayes, 44; nays, 53; absent and not voting, 1.

Those voting in the affirmative were:

Baker	Cart	Knudson	Pearce
Bender	Christensen	Kwako	Peters
Benson	Dawson	Lander	Peterson
Benz	Decker	Lerberg	Rundle
Berg	Diehl	McElroy	Scheel
Billey	Erickson	McIntyre	Solberg
Binek	Fallgatter	Maxwell	Stanton
Brakke	Fiedler	Meidinger	Trenbeath
Burke	Hartl	Miller	Unruh
Butler	Hernett	Nething	Wallin
Byrne	Ketchum	Paulson	Mr. President

Those voting in the negative were:

Aas	Hardmeyer	Kretschmar	Sanstead
Aubol	Haugen	Lamb	Saugstad
Bassingthwaite	Hendrickson	Larsen	Schmit

Birkeland	Hildebrand	Litten	Simonson
Burbidge	Hill	Longmire	Sinner
Chase	Hoffner	Nicholas	Sondreal
Daniels	Hoghaug	O'Toole	Sullivan
Dobson	Hougen	Omdahl	Thompson
Engelter	Hubrig	Poulson	Tudor
Engstrom	Huckle	Quam	Urdahl
Fritzell	Jestrab	Roney	Vogel
Geelan	Kelsch	Rosendahl	Warner
Gipp	Kessel	Rude	Wicks
Griffin			

Absent and not voting:

Devine

The motion failed.

#### EXPLANATION OF VOTE

Delegate Scheel: "I just voted in error. I intended to vote against the amendment and in favor of the proposal as listed in the book."

#### ROLL CALL

The question being on the first passage of the proposal, the roll was called and there were ayes, 66; nays, 30; absent and not voting, 2.

Those voting in the affirmative were:

Aubol	Gipp	Lamb	Saugstad
Bassingthwaite	Griffin	Lander	Scheel
Bender	Hardmeyer	Larsen	Schmit
Benson	Hartl	Litten	Simonson
Benz	Haugen	Longmire	Sinner
Birkeland	Hendrickson	McIntyre	Sullivan
Brakke	Hildebrand	Maxwell	Thompson
Burbidge	Hill	Meidinger	Trenbeath
Chase	Hoffner	Miller	Tudor
Christensen	Hoghaug	Nicholas	Unruh
Daniels	Hougen	O'Toole	Urdahl
Dobson	Hubrig	Omdahl	Vogel
Engelter	Huckle	Poulson	Wallin
Engstrom	Jestrab	Roney	Warner
Fiedler	Kelsch	Rude	Wicks
Fritzell	Kessel	Sanstead	Mr. President
Geelan	Kretschmar		

Those voting in the negative were:

Baker	Dawson	Kwako	Peterson
Berg	Decker	Lerberg	Quam
Billey	Diehl	McElroy	Rosendahl
Binek	Erickson	Nething	Rundle
Burke	Falgatter	Paulson	Solberg
Butler	Hernett	Pearce	Sondreal
Byrne	Ketchum	Peters	Stanton
Cart	Knudson		

Absent and not voting:

Aas

Devine

So the proposal passed and the title was agreed to, and Committee Proposal 1-16 was referred to the Committee on Style and Drafting.

**Committee Proposal No. 1-38.** Be it resolved by the North Dakota Constitutional Convention that section 37 of Article II 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; both of which pertain to restrictions on the office-holding capabilities of state legislators.

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Which has been read.

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

On line 1 delete the word "section" and insert the word "sections" and after the numeral "37" insert the words "and 39" and after the words "Article II" insert the words "and Article 51 of the amendments to"

On line 4 delete the word "both" and insert the word "all"

On line 7 delete the second word "Section" and insert the word "Sections" and after the numeral "37" insert the words "and 39" and after the words "Article II" insert the words "and Article 51 of the amendments to"

On line 8 delete the word "is" and insert the word "are"

And renumber the lines accordingly.

Which motion prevailed.

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

In line 13, delete "any of its"

In line 14, delete "political subdivision, nor"

And renumber the lines accordingly.

Which motion prevailed on a division vote.

Delegate Kelsch moved that Committee Proposal No. 1-38 be amended as follows:

In line 13 of the amended proposal, after the word "or" insert the words "its counties, nor"

And renumber the lines accordingly.

Which motion prevailed on a division vote.

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

In line 13 of the amended proposal, after the word "state" insert the following: ", its cities,"

And renumber the lines accordingly.

Delegate Chase requested he be excused from voting because of a personal interest.

Delegate Longmire moved that Delegate Chase be permitted to vote on the motion of Delegate Hartl to amend Committee Proposal 1-38, which motion prevailed.

The question was on the motion of Delegate Hartl to amend Committee Proposal 1-38, which motion prevailed on a division vote.

Delegate Saugstad moved that the rules be suspended, and that Committee Proposal 1-38 be deemed properly engrossed and placed on the calendar for first passage, which motion was subsequently withdrawn.

**Committee Proposal No. 1-44.** Be it resolved by the North Dakota Constitutional Convention that sections 27 and 30 of Article II of the constitution of the state of North Dakota be repealed; and that sections 2 and 5 of Article II to the constitution of the state of North Dakota be created; all pertaining to legislative terms of office.

Which has been read.

Delegate Kwako moved that Committee Proposal 1-44 be amended as follows:

On line 1 after the numeral "27" delete the word "and" and insert in lieu thereof a comma and after the numeral "30" insert "and 33"

On line 6 after the numeral "27" delete the word "and" and



insert in lieu thereof a comma and after the numeral "30" insert "and 33"

And renumber the lines accordingly.

Which motion prevailed.

Delegate Hoffner moved that the rules be suspended, and Committee Proposal 1-44 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, the roll was called and there were ayes, 70; nays, 26; absent and not voting, 2.

Those voting in the affirmative were:

Aubol	Fiedler	Kretschmar	Sanstead
Bender	Fritzell	Kwako	Scheel
Benson	Geelan	Lamb	Schmit
Benz	Gipp	Larsen	Simonson
Berg	Griffin	Lerberg	Sinner
Billey	Hardmeyer	Litten	Solberg
Binek	Hartl	McIntyre	Sondreal
Birkeland	Hendrickson	Nicholas	Stanton
Brakke	Hildebrand	O'Toole	Sullivan
Chase	Hill	Omdahl	Thompson
Christensen	Hoffner	Paulson	Trenbeath
Daniels	Hoghaug	Pearce	Tudor
Decker	Hougen	Peters	Urdahl
Diehl	Hubrig	Poulson	Wallin
Dobson	Huckle	Quam	Warner
Engelter	Kelsch	Roney	Wicks
Engstrom	Kessel	Rosendahl	Mr. President
Falgatter	Ketchum		

Those voting in the negative were:

Aas	Devine	Longmire	Peterson
Baker	Erickson	McElroy	Rude
Bassingthwaite	Haugen	Maxwell	Rundle
Burbidge	Hernett	Meidinger	Saugstad
Burke	Jestrab	Miller	Unruh
Cart	Knudson	Nething	Vogel
Dawson	Lander		

Absent and not voting were:

Butler                      Byrne

So the proposal passed and the title was agreed to, and Committee Proposal 1-44 was referred to the Committee on Style and Drafting.

Delegate Paulson moved that Committee Proposal 1-76 be placed on the calendar between Committee Proposal 1-93 and Committee Proposal 1-104, which motion prevailed.

President Wenstrom declared that the Convention would be in recess for ten minutes.

The Convention reconvened with President Wenstrom presiding.

Delegate Maxwell moved that Committee Proposal 1-89 be placed on the calendar immediately following Committee Proposal 1-117, which motion prevailed.

Delegate Baker moved that Committee Proposal 1-91 be moved to the head of the calendar, which motion prevailed.

**FIRST READING OF PROPOSALS**

**Committee Proposal No. 1-91.** Be it resolved by the North Dakota Constitutional Convention that sections 74, 82 and 83 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 elections and terms, be created.

Which has been read.

### ROLL CALL

The question being on the first passage of the proposal, the roll was called and there were ayes, 88; nays, 1; absent and not voting, 9.

Those voting in the affirmative were:

Aas	Engelter	Ketchum	Roney
Aubol	Engstrom	Knudson	Rosendahl
Baker	Erickson	Kretschmar	Rude
Bassingthwaite	Fallgatter	Kwako	Rundle
Bender	Fiedler	Lamb	Sanstead
Benson	Fritzell	Lander	Saugstad
Berg	Gipp	Larsen	Scheel
Billey	Griffin	Litten	Schmit
Binek	Hartl	Longmire	Simonson
Birkeland	Haugen	McElroy	Sinner
Brakke	Hendrickson	McIntyre	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	Vogel
Decker	Huckle	Peters	Wallin
Devine	Jestrab	Peterson	Warner
Diehl	Kelsch	Poulson	Wicks
Dobson	Kessel	Quam	Mr. President

Those voting in the negative were:

Cart

Absent and not voting were:

Benz	Hardmeyer	Maxwell	Tudor
Butler	Lerberg	Pearce	Urdahl
Geelan			

So the proposal passed and the title was agreed to, and Committee Proposal 1-91 was referred to the Committee on Style and Drafting.

### MOTION

Delegate Baker moved that Committee Proposal 1-103 be moved to the head of the calendar, which motion prevailed.

### FIRST READING OF PROPOSALS

**Committee Proposal No. 1-103.** Be it resolved by the North Dakota Constitutional Convention that section 81 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 ethics, be created.

Which has been read.

Delegate Hill moved that Committee Proposal 1-103 be amended as follows:

Delete lines 7 through 11 inclusive.

Which motion prevailed on a division vote.

Delegate Omdahl moved that the rules be suspended, and that Committee Proposal 1-103 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, 63; nays, 27; absent and not voting, 8.

## Those voting in the affirmative were:

Aas	Fallgatter	Kessel	Roney
Bassingthwaite	Fiedler	Kretschmar	Rosendahl
Bender	Fritzell	Lamb	Rude
Benson	Griffin	Lerberg	Sanstead
Birkeland	Hardmeyer	Litten	Scheel
Brakke	Hartl	Longmire	Sinner
Burbidge	Haugen	McIntyre	Solberg
Burke	Hendrickson	Miller	Sondreal
Chase	Hernett	Nicholas	Sullivan
Daniels	Hildebrand	O'Toole	Trenbeath
Dawson	Hill	Omdahl	Unruh
Decker	Hoffner	Paulson	Vogel
Devine	Hoghaug	Peters	Warner
Dobson	Hubrig	Peterson	Wicks
Engelter	Jestrab	Poulson	Mr. President
Engstrom	Kelsch	Quam	

## Those voting in the negative were:

Aubol	Christensen	Kwako	Saugstad
Baker	Diehl	Lander	Schmit
Berg	Erickson	Larsen	Simonson
Billey	Gipp	McElroy	Stanton
Binek	Huckle	Meidinger	Thompson
Byrne	Ketchum	Nething	Wallin
Cart	Knudson	Rundle	

## Absent and not voting were:

Benz	Geelan	Maxwell	Tudor
Butler	Hougen	Pearce	Urdahl

So the proposal passed and the title was agreed to, and Committee Proposal 1-103 was referred to the Committee on Style and Drafting.

## INTRODUCTION OF PROPOSALS

Delegates Benson, Bender, Poulson Brakke, Bassingthwaite, Aubol, Billey, Lander, Hardmeyer, Hill, Hoghaug, Hougen, Hubrig, Erickson, Fritzell, Geelan, Haugen Decker, Larsen, Thompson, Wallin, Tudor, Simonson, Sinner, Sondreal, Urdahl, Warner, Wicks, Miller, Sullivan, Paulson, Litten, Dawson, Scheel, Roney, Vogel, Maxwell, Sanstead, Rosendahl, Peterson, Chase, Christensen, Binek, Burke, Daniels, Griffin, Gipp, Hartl, Hildebrand, Fiedler, Schmit, Engstrom, Dobson, Nicholas, O'Toole, Kelsch, Kessel and Jestrab introduced:

**Alternate Proposal No. 4-1.** Be it resolved by the North Dakota Constitutional Convention that the following be introduced as an alternate proposal to Committee Proposal No. 1-43 for submission to the electorate as an alternate proposal on the Constitutional Convention ballot.

Was read the first time and referred to the Committee on Constitutional Ballot.

Delegates Bassingthwaite, Aas, Bender, Billey, Chase, Brakke, Cart, Ketchum, Unruh, Baker, Fallgatter, Erickson, Huckle, Rundle, Scheel, Knudson, Hougen, Trenbeath, Haugen, Stanton, Peterson, Wenstrom, Peters, Jestrab, Hernett, Poulson, Byrne, Diehl, Longmire, Warner and Christenson introduced:

**Alternate Proposal No. 4-2.** Be it resolved by the North Dakota Constitutional Convention that the following be introduced as an

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alternate proposal to Committee Proposal No. 1-4 for submission to the electorate as an alternate proposal on the Constitutional Convention ballot.

Was read the first time and referred to the Committee on Constitutional Ballot.

Delegate Saugstad moved that the Convention be adjourned until 8:00 a.m., January 28, 1972, which motion prevailed.

ROY GILBREATH, Chief Clerk