

TWENTY-THIRD DAY

Bismarck, February 2, 1972

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

Prayer was offered by Rev. Fr. Arnold Spain, St. Anne's Catholic Church, Bismarck.

"Father, it is a great age to be alive! We've reached deep into the heart of the earth and solved many of her problems.

"We're thrusting our creativity right into the mysteries of outer space.

"The world, the whole world is moving ahead, with wonder, sensitivity and power.

"Thank you, for making man such a marvel.

"Teach us to live together in respect and love for each other. And, to put our power and skill at the service of men everywhere."

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

REPORTS OF PROCEDURAL COMMITTEE

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

Committee Proposal No. 1-15

Committee Proposal No. 1-100 (Sec. b)

Committee Proposal No. 1-119

And find the same correctly engrossed.

DELEGATE ERICKSON, Chairman

Delegate Urdahl 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. 1-85

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.

REVISION AND CORRECTION OF THE JOURNAL

Mr. President: Your Committee on Revision and Correction of the Journal has carefully examined the Journal of the 31st day of January, 1972, and recommends that the same be corrected as follows:

On page 358, in line 16, following the word "proposal" delete the balance of the line, and insert in lieu thereof the word "lost".

And delete lines 17 and 18.

On page 360, following line 6, add the following: "The motion prevailed."

And when so corrected recommends that the same be approved.

DELEGATE SIMONSON, Chairman

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

FIRST READING OF PROPOSALS

Committee Proposal No. 1-99. Be it resolved by the North Dakota Constitutional Convention that article 33 of the amendments to the constitution of the state of North Dakota be repealed; and that new section 8 of Article XVI of the constitution of the state of North Dakota be created, both of which pertain to the recall of certain elected officials.

Which has been read.

Delegate Berg moved that committee proposal 1-99 be amended as follows:

On page 1, line 13, delete the word "**non-judicial**"

And renumber the lines accordingly.

Which motion failed.

Delegate Omdahl moved that Committee Proposal 1-99 be amended as follows:

On line 2 of page 1 delete the semicolon and insert a comma and delete the remainder of the line

Delete all of lines 3 and 4 and insert in lieu thereof the words "**which pertains to the recall of certain**"

Delete all of lines 9 through 25

On page 2 delete all of lines 1 through 6

And 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, 75; nays, 19; absent and not voting, 4.

Those voting in the affirmative were:

Aas	Engelter	Ketchum	Quam
Aubol	Engstrom	Knudson	Rosendahl
Baker	Erickson	Kretschmar	Rude
Benz	Fallgatter	Kwako	Rundle
Berg	Gipp	Lamb	Saugstad
Billey	Griffin	Lander	Scheel
Binek	Hardmeyer	Larsen	Schmit
Birkeland	Hartl	Litten	Stanton
Burbidge	Haugen	Longmire	Sullivan
Byrne	Hendrickson	McElroy	Thompson
Cart	Hernett	Maxwell	Trenbeath
Chase	Hildebrand	Meidinger	Unruh
Christensen	Hoffner	Miller	Urdahl
Daniels	Hoghaug	Nething	Vogel
Dawson	Hougen	O'Toole	Wallin
Decker	Huckle	Pearce	Warner
Devine	Jestrab	Peters	Wicks
Diehl	Kelsch	Peterson	Mr. President
Dobson	Kessel	Poulson	

Those voting in the negative were:

Bassingthwaite	Fiedler	McIntyre	Sanstead
Bender	Fritzell	Nicholas	Simonson
Benson	Geelan	Omdahl	Sinner
Brakke	Hill	Paulson	Sondreal
Burke	Hubrig	Roney	
Absent and not voting:			
Butler	Lerberg	Solberg	Tudor

So the proposal passed and the title was agreed to, and Committee Proposal 1-99 was referred to the Committee on Style and Drafting.

MOTION

Delegate Hernet moved that Committee Proposal 1-100 be moved to the head of the calendar, which motion prevailed.

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.

Except for Section 1 (a) and Section 2.

Delegate Baker moved that Committee Proposal 1-100 be amended as follows:

On page 1 of the engrossed proposal, delete lines 15 through 25 inclusive, and insert in lieu thereof the following:

"(b) The governor shall have authority to reorganize executive departments by executive order under procedures prescribed by law."

And renumber the lines accordingly.

Which motion failed on a division vote.

ROLL CALL

The question being on the first passage of the proposal, as amended, the roll was called and there were ayes, 77; nays, 18; absent and not voting, 3.

Those voting in the affirmative were:

Aas	Dobson	Hubrig	Peterson
Aubol	Engelster	Kelsch	Poulson
Bassingthwaite	Engstrom	Kessel	Quam
Bender	Erickson	Ketchum	Rosendahl
Benson	Fiedler	Knudson	Rude
Benz	Fritzell	Kretschmar	Sanstead
Berg	Geelan	Lamb	Saugstad
Billey	Gipp	Larsen	Scheel
Binek	Griffin	Lerberg	Schmit
Birkeland	Hardmeyer	Litten	Simonson
Brakke	Hartl	McElroy	Sinner
Burbidge	Haugen	McIntyre	Sondreal
Burke	Hendrickson	Meidinger	Sullivan
Byrne	Hernet	Miller	Thompson
Chase	Hildebrand	Nething	Unruh
Christensen	Hill	Nicholas	Urdahl
Daniels	Hoffner	O'Toole	Vogel
Dawson	Hoghaug	Omdahl	Wicks
Decker	Hougen	Peters	Mr. President
Diehl			

Those voting in the negative were:

Baker	Jestrab	Paulson	Stanton
Cart	Kwako	Pearce	Trenbeath
Devine	Lander	Roney	Wallin
Fallgatter	Longmire	Rundle	Warner
Huckle	Maxwell		

Absent and not voting:

Butler	Solberg	Tudor
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So the proposal passed and the title was agreed to, and Committee Proposal 1-100 was referred to the Committee on Style and Drafting.

ANNOUNCEMENT

Delegate Solberg reported his presence at the Convention.

MOTION

Delegate Peterson moved that the Convention reconsider its action by which Committee Proposal 1-57 was passed, which motion prevailed.

Delegate Peterson moved that Committee Proposal 1-57 be placed at the head of the calendar, which motion prevailed.

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 Peterson moves that engrossed committee proposal 1-57 be amended as follows:

On page 1, line 10, following the words "ground of race," insert the phrase "sex,"

And renumber the lines accordingly.

Delegate Baker moved the previous question, which motion prevailed.

Delegate Warner requested a recorded roll call vote, which request was granted.

ROLL CALL

The roll was called and there were ayes, 59; nays, 31; absent and not voting, 8.

Those voting in the affirmative were:

Aas	Gipp	Meidinger	Saugstad
Aubol	Griffin	Miller	Schmit
Bassingthwaite	Hardmeyer	Nething	Simonson
Berg	Haugen	Nicholas	Solberg
Billey	Hernett	O'Toole	Sondreal
Binek	Hill	Omdahl	Stanton
Byrne	Hoghaug	Peters	Sullivan
Chase	Hubrig	Peterson	Thompson
Christensen	Jestrab	Poulson	Unruh
Daniels	Kessel	Quam	Urdahl
Devine	Knudson	Roney	Wallin
Diehl	Kretschmar	Rosendahl	Warner
Engelter	Kwako	Rude	Wicks
Erickson	Larsen	Rundle	Mr. President
Geelan	Longmire	Sanstead	

Those voting in the negative were:

Baker	Cart	Hartl	Lamb
Bender	Dawson	Hendrickson	Lander
Benson	Decker	Hildebrand	Lerberg
Benz	Dobson	Hoffner	McIntyre
Birkeland	Engstrom	Hougen	Maxwell
Brakke	Fallgatter	Huckle	Paulson
Burbidge	Fiedler	Kelsch	Vogel
Burke	Fritzell	Ketchum	

Absent and not voting:

Butler	McElroy	Scheel	Trenbeath
Litten	Pearce	Sinner	Tudor

The motion to amend prevailed.

Delegate Paulson moved that Committee Proposal 1-57 be amended as follows:

On page 1 of the engrossed proposal, line 10, delete the words "or segregation"

And renumber the lines accordingly.

Which motion prevailed.

Delegate Kelsch moved that the rules be suspended, and that Committee Proposal 1-57 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, 84; nays, 3; absent and not voting, 11.

Those voting in the affirmative were:

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

Those voting in the negative were:

Burbidge	Burke	Hartl	
Absent and not voting:			
Butler	Litten	Peters	Trenbeath
Dawson	Nicholas	Scheel	Tudor
Kessel	Pearce	Sinner	

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

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

The convention re-convened with President Wenstrom presiding.

MOTION

Delegate Thompson moved that Committee Proposal 1-104 be placed at the foot of the calendar, which motion prevailed.

INTRODUCTION OF PROPOSALS

Delegates Stanton, Solberg, Kwako, Berg, Warner, Roney, Trenbeath, Wallin, Peters, Rundle, Baker, Erickson, Diehl, Knudson, Fallgatter, Unruh, Saugstad, Binek, Pearce, Cart, Devine, Ketchum and Benz introduced.

Alternate Proposal No. 4-3. Be it resolved by the North Dakota Constitutional Convention that the following be introduced as an alternate proposal to **Committee** Proposal No. 1-102 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.

FIRST READING OF PROPOSALS

Delegate Sinner moved to dispense with the reading of the Committee Proposal 1-70, which motion prevailed.

Committee Proposal No. 1-70. Be it resolved by the North Dakota Constitutional Convention that sections 31, 36, 46, 47, 48, 49, 58, 61, 63, 64, 65 and 66 of Article II of the constitution of the state of North Dakota be repealed; and that new sections 6, 11, 12, 13, 14, 16, 17, 18 and 19 of Article II to the constitution of the state of North Dakota be created; all of which pertain to matters of legislative procedure.

Which has been read.

Delegate Sinner moved that Committee Proposal 1-70 be amended as follows:

Delete all of lines 22 and 23 of the engrossed proposal and insert in lieu thereof the following:

"Section 12. Each house shall be the judge of the qualifications of its own members, but their election returns shall be subject exclusively to judicial review as provided by law. In the event that a review of those returns discloses that two or more candidates to the same office have received an equal and highest number of votes, the secretary of state shall by lot choose one of them for that office."

Renumber the lines accordingly.

Which motion prevailed.

Delegate Sinner moved that the rules be suspended, and that Committee Proposal 1-70 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, 92; nays, 3; absent and not voting, 3.

Those voting in the affirmative were:

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

Those voting in the negative were:

Benz	Cart	Rundle
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Absent and not voting:

Butler	Pearce	Tudor
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So the proposal passed and the title was agreed to, and Committee Proposal 1-70 was referred to the Committee on Style and Drafting.

Committee Proposal No. 1-82. Be it resolved by the North Dakota Constitutional Convention that section 127 of the constitution of the state of North Dakota is hereby repealed; and that a new section to the constitution of the state of North Dakota be created; both of which pertain to voting disqualifications.

Which has been read.

Delegate Longmire moved that engrossed Committee Proposal 1-82 be amended as follows:

Delete lines 10 through 12 inclusive and insert in lieu thereof the following:

"No person who has been declared mentally incompetent by order of a court or other body of competent jurisdiction and which order has not been revoked or rescinded shall be qualified to vote at any election; nor shall any person be qualified to vote who has been convicted of a felony, or otherwise under sentence in a correction institution or jail, during the period his sentence is still in effect."

And renumber the lines accordingly.

Which motion prevailed.

Delegate Hartl moved that Committee Proposal 1-82 be amended as follows:

On page 1 of the amended engrossed proposal, delete everything after line 9, and insert in lieu thereof the following:

No person who has been declared mentally incompetent by order of a court of competent jurisdiction and which order has not been revoked or who is non compos mentis shall be qualified to vote at any election; nor shall any person be qualified to vote who has been convicted of a felony during the period his sentence is still in effect.

And renumber the lines accordingly.

Which motion failed on a division vote.

Delegate Longmire moved that the rules be suspended, and that Committee Proposal 1-82 be deemed properly re-engrossed and placed on the calendar for first passage, which motion was subsequently withdrawn.

Delegate Rundle moved that the rules be suspended, and that Committee Proposal 1-82 be deemed properly re-engrossed and placed at the foot of the calendar for first passage, which motion prevailed.

President Wenstrom declared the Convention would stand recessed for one hour.

Convention re-convened at 1:00 p.m. with President Wenstrom presiding.

MOTION

Delegate Thompson moved that Committee Proposal 1-89 be moved to 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 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 Thompson moved that further consideration of Committee Proposal 1-89 and its amendment be delayed until such time as Delegate Pearce is present, which motion prevailed.

REPORT OF A PROCEDURAL COMMITTEE

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

Committee Proposal No. 1-82

And find the same correctly re-engrossed.

DELEGATE ERICKSON, Chairman

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

FIRST READING OF PROPOSALS

Committee Proposal No. 1-29. Be it resolved by the North Dakota Constitutional Convention that sections 29 and 35 of Article II and section 214 of Article XVIII of the constitution of the state of North Dakota be repealed; and that section 4 of Article II to the constitution of the state of North Dakota be created; all of which pertain to reapportionment of the state legislature.

Which has been read.

Delegate Hendrickson requested permission to divide the question on engrossed Committee Proposal 1-29 in such manner that the material starting on line 20, after the word "office." be voted on separately, which request was granted.

Delegate Longmire moved that Committee Proposal 1-29 be amended as follows:

On page 1 of the engrossed proposal delete all of lines 13 through 25

On page 2 of the engrossed proposal delete all of lines 1 through 17 and insert in lieu thereof the following:

"Section 4. A legislative reapportionment commission consisting of nine electors, two each designated by the presiding officer of the senate, the presiding officer of the house of representatives, and the minority leader of each house, and the ninth appointed by the governor, shall fix the number of senators and representatives and divide the state into as many senatorial districts of compact and contiguous territory as there are senators, which districts shall be equal to each other in the number of persons entitled to representation. Two representatives shall be elected at large from each senatorial district, except that when a majority of the electors within a senatorial district so elect, the commission shall create two separate representative districts therein. When a majority of the electors within a senatorial district reside within a municipality the commission shall combine that senatorial district with other districts in which portions of the municipality and any related townships are located, and provide for the election of senators and representatives at large, except that when a majority of the electors within each of the affected districts so elect, the commission shall create single-member senatorial and representative

districts only. Elections at which the foregoing issues may be determined shall be held as provided by law.

Upon agreement by a majority of its members, the commission shall file its reapportionment plan with the secretary of state, and it shall be deemed an effective act sixty days following such filing; provided, the supreme court, in the exercise of original jurisdiction, may review any plan adopted by the commission and remand such plan for revision within a stated period if it fails to meet state and federal constitutional requirements.

The commission shall be appointed as soon as possible following adoption of this constitution and immediately following the 1980 general election and every ten years thereafter. Commission members shall serve until each reapportionment plan becomes finally effective. Vacancies shall be filled in the same manner as for original appointment.

The commission shall promulgate its own rules and modes of procedure, and its members shall be compensated for meeting days at a rate provided by law."

And renumber the pages and lines accordingly.

Delegate Kelsch moved that the question on the adoption of the Longmire amendment to Committee Proposal 1-29 be divided, in such manner that the first sentence of Section 4 be voted on separately, which motion prevailed.

The question then was on the adoption of the first sentence of Section 4 of the Longmire amendment to Committee Proposal 1-29, which motion failed on a division vote.

The question then was on the adoption of the Longmire amendment to Committee Proposal 1-29, except the first sentence of Section 4 of the amendment.

Delegate Sanstead requested a recorded roll call vote on the adoption of the Longmire amendment, except the first sentence of Section 4 of the amendment, which request was granted.

ROLL CALL

The roll was called and there were ayes, 33; nays, 63; absent and not voting, 2.

Those voting in the affirmative were:

Aas	Decker	Lerberg	Rundle
Baker	Hartl	Litten	Saugstad
Benz	Hernett	Longmire	Scheel
Berg	Hildebrand	Nething	Solberg
Binek	Kessel	Nicholas	Stanton
Burbidge	Knudson	Peters	Trenbeath
Byrne	Kwako	Quam	Unruh
Christensen	Lander	Roney	Mr. President
Dawson			

Those voting in the negative were:

Aubol	Erickson	Jestrab	Poulson
Bassingthwaite	Fallgatter	Kelsch	Rosendahl
Bender	Fiedler	Ketchum	Rude
Benson	Fritzell	Kretschmar	Sanstead
Billey	Geelan	Lamb	Schmit
Birkeland	Gipp	Larsen	Simonson
Brakke	Griffin	McElroy	Sinner
Burke	Hardmeyer	McIntyre	Sondreal
Cart	Haugen	Maxwell	Sullivan
Chase	Hendrickson	Meidinger	Thompson
Daniels	Hill	Miller	Urdahl
Devine	Hoffner	O'Toole	Vogel
Diehl	Hoghaug	Omdahl	Wallin
Dobson	Hougen	Paulson	Warner
Engelter	Hubrig	Pearce	Wicks
Engstrom	Huckle	Peterson	

Absent and not voting:

Butler Tudor

The motion failed.

President Wenstrom declared the Convention would stand recessed for fifteen minutes.

Convention reconvened with President Wenstrom presiding.

Consideration of Committee Proposal 1-29 continued.

Delegate Maxwell moved that Committee Proposal 1-29 be amended as follows:

On page 1 of the engrossed proposal, in line 23, delete everything after the word "thereof."

Delete all of lines 24 and 25

Renumber the lines accordingly.

Which motion failed.

Delegate Kelsch moved that Committee Proposal 1-29 be amended as follows:

On page 1 of the engrossed proposal, in line 24, after the word "senators" insert the words "at large"

And renumber the lines accordingly.

Which motion prevailed.

Delegate Hendrickson withdrew her request for dividing the question.

Delegate Kelsch moved that the rules be suspended, and that Committee Proposal 1-29 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, 79; nays, 16; absent and not voting, 3.

Those voting in the affirmative were:

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

Those voting in the negative were:

Aas	Decker	Litten	Solberg
Baker	Devine	Longmire	Stanton
Cart	Lander	Nething	Thompson
Dawson	Lerberg	Saugstad	Unruh

Absent and not voting:

Butler Nicholas Tudor

So the proposal passed and the title was agreed to, and Committee Proposal 1-29 was referred to the Committee on Style and Drafting.

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, with the consent of his second, requested permission to withdraw his amendment made previously to Committee Proposal 1-89, which request was granted.

Delegate Thompson moved that the engrossed 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 rights of the owner and without just compensation having first been made to the owner for all damages.

However 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.

And renumber the lines accordingly.

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

In the second paragraph of the amendment after the words "**just compensation**" insert the words "**for all damages**"

Delegate Hubrig moved the previous question, which motion prevailed.

The question then was on the motion of Delegate Longmire to amend the Thompson amendment, which motion prevailed.

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

Delegate Burbidge moved that the amended engrossed Committee Proposal 1-89 be amended as follows:

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

Private property shall not be taken or damaged for public use without first protecting the interests of the general public and establishing a reasonable accountability for the project plan. Procedures for certifying this shall be established by law with special consideration being acknowledged for action with dispatch and finality in cases involving right-of-way for transportation, communication and transmission of power for public service.

After public necessity and project plan has been certified, private property may be taken or damaged for public use after paying owner mutually agreed just compensation for all damages, or by depositing estimated just compensation for all damages into the court for the owner pending final determination either by the courts or by a mutually agreed upon arbitration panel.

Which motion failed.

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

Delete lines 10 through 13 in the amended engrossed committee proposal 1-89 and insert in lieu thereof the following:

Private property shall not be taken or damaged for necessary public use without first protecting the rights of the owner by payment for all damages occasioned by such taking, such damages to be determined by a jury unless waived.

And renumber the lines accordingly.

Which motion failed on a division vote.

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

Those voting in the negative were:

Baker	Devine	Kelsch	Paulson
Cart	Hildebrand	Kretschmar	Pearce
Chase	Hubrig	Larsen	Stanton

Absent and not voting:

Butler	Nicholas	Tudor
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So the proposal passed and the title was agreed to, and Committee Proposal 1-89 was referred to the Committee on Style and Drafting.

FIRST READING OF PROPOSALS

Committee Proposal No. 1-44. Be it resolved by the North Dakota Constitutional Convention that sections 27, 30 and 33 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 Longmire moved that Committee Proposal 1-44 be amended as follows:

Delete all of lines 12 through 23 of the engrossed proposal and insert in lieu thereof the following:

"Section 2. Senators shall be elected for terms of four years and representatives for terms of two years.

Section 5. Whenever the legislative assembly is redistricted the terms of legislators removed of their constituencies thereby shall be deemed to have immediately expired."

And renumber the lines accordingly.

Delegate Dobson called for a division of the question, in such manner that Section 2 and Section 5 can be voted on separately.

The question then was on the adoption of Section 2 of the amendment, which motion prevailed on a division vote.

President Wenstrom declared the convention would stand recessed for fifteen minutes.

The Convention reconvened with President Wenstrom presiding.

Consideration of Committee Proposal 1-44 continued.

Delegate Hoffner moved to amend Committee Proposal 1-44 as follows:

In the amended engrossed proposal, under Section 2, following the words "**electd for terms of**" delete "**four**" and insert in lieu thereof "**two**"

Delegate Baker moved the previous question, which motion failed.

The question then was on the motion to amend Committee Proposal 1-44, which motion failed.

Delegate Dobson moved that the Convention reconsider the action by which Section 2 of the Longmire amendment to Committee Proposal 1-44 was adopted, which motion prevailed on a division vote.

Delegate Dawson moved that the question of adoption of the Longmire amendment not be divided, which motion was ruled out of order.

Delegate Dawson then moved to consider Section 5 of the Longmire amendment before voting on Section 2 of the amendment, which failed on a division vote.

The question then was on the adoption of Section 2 of Delegate Longmire's amendment to Committee Proposal 1-44, which motion failed on a division vote.

MOTIONS

Delegate Geelan moved that Rule 13 be amended in part to read as follows: "At the close of the twenty-fourth day of the plenary session all proposals shall have been acted upon on first reading and first passage.", which motion prevailed.

Delegate Geelan then moved to suspend that portion of Rule 13.1 for the balance of the plenary session which is "No proposal that has been amended shall be voted on for first passage until one convention day has passed.", which motion prevailed.

INTRODUCTION OF PROPOSALS

Delegates Rundle, Stanton, Trenbeath, Kwako, Hill, Engstrom, Wallin, Sanstead, Rude, Rosendahl, Nicholas, Binek, Saugstad, Hoghaug, Knudson, Aubol, Baker, Berg, Warner, Peterson, Hougen, Fallgatter and Ketchum introduced:

Alternate Proposal No. 4-4. Be it resolved by the North Dakota Constitutional Convention that the following be introduced as an alternate proposal to **Committee Proposal Nos. 1-105, 1-106, 1-107, 1-108, 1-109, 1-110, 1-111, 1-112, 1-113** 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 all absent Delegates be excused, which motion prevailed.

Delegate Hoffner moved that Committee Proposals 1-31, 1-35,

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1-41, 1-42, and 1-69, be re-referred to the Committee on Constitutional Ballot, which motion prevailed.

Delegate Dobson requested unanimous consent to withdraw Delegate Proposal 2-72, which request was granted.

Delegate Hendrickson requested unanimous consent to withdraw Delegate Proposals 2-58 and 2-59, which request was granted.

Delegate Saugstad moved that the Convention be adjourned until 8:30 a.m., February 3, 1972, which motion prevailed, on a division vote.

ROY GILBREATH, Chief Clerk