

THIRD DAY

Bismarck, January 5, 1972

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

Prayer was offered by Rev. John Nicolai, Pastor, Trinity Lutheran Church, Bismarck.

"Eternal and Almighty God, we turn to Thee on this new day, thanking Thee for Thy continued presence and daily grace. As the members of the convention proceed in these beginning days, guide and direct them. We thank Thee, that Thy Holy Spirit does break into the lives and minds of people and leads them into right and correct ways. So move here, that a constitution may be established that will be right for the peoples of this State and pleasing unto Thee.

"In the name of Jesus Christ, we pray. Amen"

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

A quorum was declared by President Wenstrom.

REVISION AND CORRECTION OF THE JOURNAL

Mr. President: Your Committee on Revision and Correction of the Journal has carefully examined the Journal of the 3rd day of January, 1972, and recommends that the same be corrected as follows:

On page 87, line 44, delete "didn't" and substitute in lieu thereof "don't"

On page 87, line 57, delete the balance of the line following the words "first thing", and insert in lieu thereof "to do is to kill all the lawyers."

On page 93, in lines 2 and 3, delete "Legislative Functions" and substitute in lieu thereof "Education, Resources and Public Lands"

On page 93, in lines 34 and 35, delete "Preamble, Bill of Rights and Suffrage" and substitute in lieu thereof "Legislative Functions."

On page 95, in lines 37 and 38, delete "Preamble, Bill of Rights and Suffrage" and substitute in lieu thereof "Legislative Functions."

On page 99, line 23, delete "Allen" and substitute in lieu thereof "Allin"

And when so corrected recommends that the same be approved.

DELEGATE SIMONSON, Chairman

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

ANNOUNCEMENTS

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

"Because I am a history buff, I wish to make an announcement concerning an individual with whom we share a spiritual heritage.

"Even as the delegates to the First Federal Constitutional Convention were inspired by the writings of George Mason and Thomas Jefferson, in the same way the delegates to the First North Dakota Constitutional Convention were inspired by the 'skeleton' Constitution which was written by James Bradley Thayer.

"In the Langdell Law Library of the Harvard Law School reposes a tin box which is labeled "Thayer Draft — North Dakota State Constitution, 1889."

"James Bradley Thayer was born on January 15, 1831, in Haverhill, Mass. He entered Harvard College in 1848 and graduated with distinction in 1852. He entered the Harvard Law School in 1854. In 1874 he accepted the professorship in the Harvard Law School which he held for the remainder of his life. This period witnessed great changes in the school. Langdell, Thayer, Gray, and Ames together laid the foundation for the future success of the school. Aside from this contribution, Thayer's reputation rests on his work in constitutional law and in the law of evidence. On both subjects he became recognized as the leading scholar in the United States. In regard to constitutional law, to which Thayer also devoted himself, he early adopted and always upheld the view that no legislative action should be held unconstitutional unless it was so beyond a reasonable doubt and that the function of a Constitution is to lay down in general terms broad fundamental principles. Constitutions, he said, 'were not made to be codes of laws, or to embody the opinion of a momentary majority.'

"As a citizen Thayer neglected no duties. On questions of local as well as national politics, his tongue and his pen were always at the service of what he deemed a righteous cause. He died at his home at Cambridge on February 14, 1902."

Delegate Longmire moved that the absent members be excused, which motion prevailed.

Delegate Rundle 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.

REPORTS OF SUBSTANTIVE COMMITTEES

Mr. President: Your Committee on Judicial Functions and Political Subdivisions to whom was referred Committee Proposal No. 1-14 has had the same under consideration and recommends that the same be amended as follows:

On page 2, line 10, after the word "seal" delete the word "to", and insert in lieu thereof the word "shall".

And when so amended recommends the same do pass.

DELEGATE LONGMIRE, Chairman

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

Mr. President: Your Committee on Finance and Taxation to whom was referred Committee Proposal No. 1-22 has had the same under consideration and recommends that the same do pass.

DELEGATE HAUGEN, Chairman

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

Delegate Geelan moved that Rule No. 16 be amended as follows:

In the Eighth Order of Business, following the word "Communications" add the words "and Announcements"

which motion prevailed.

Mr. President: Your Committee on Preamble, Bill of Rights and Suffrage to whom was referred Committee Proposal No. 1-1 has

had the same under consideration and recommends that the same do pass.

DELEGATE MAXWELL, Chairman

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

Mr. President: Your Committee on Preamble, Bill of Rights and Suffrage to whom was referred Committee Proposal No. 1-2 has had the same under consideration and recommends that the same be indefinitely postponed.

DELEGATE MAXWELL, Chairman

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

Delegate Saugstad moved that the Plenary Sessions begin at 9 a.m., which motion prevailed.

Delegate Hoffner moved that the Convention give its unanimous consent to the Legislative Functions Committee to withdraw Committee Proposal 1-7, which motion prevailed.

Delegate Dobson moved that when the Convention adjourn today, the Convention stand adjourned until 9 a.m. on Friday, January 7, which motion failed.

Delegate Kelsch moved that the Convention be adjourned, which motion prevailed.

ROY GILBREATH, Chief Clerk