

NINTH DAY

Bismarck, January 13, 1972

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

Prayer was offered by Captain Thomas Lewis of the Salvation Army, Bismarck.

"Eternal Father, as we stand before Thee this day, we implore Thy wisdom and guidance for each one gathered here. May each of these Delegates be given the wisdom which will help make our state a great place in which to live."

"This we request in the name of Thy Son.

"In Jesus' Name, Amen."

Roll was called and all Delegates were present except Delegates Benz, Hill and Hoghaug.

A quorum was declared by the President.

ANNOUNCEMENT

President Wenstrom announced that Delegate Hill is ill at this time.

REPORT OF PROCEDURAL COMMITTEE

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

Committee Proposal No. 1-23

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 11th day of January, 1972, and finds the same to be correct.

DELEGATE SIMONSON, Chairman

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

MOTION

Delegate Sinner moved that on page 160 of the Journal of January 12, Delegate Simonson is listed on a vote as absent and not voting, when she actually voted nay, and the Journal should be corrected to show her vote as "nay", which motion was withdrawn.

President Wenstrom then ordered the Convention to be ease.

ANNOUNCEMENT

Delegate Hoghaug reported his presence at the Convention.

CONSIDERATION OF AMENDMENTS

Delegate Longmire has moved that the amendments to Committee Proposal 1-13, as recommended by the Committee on Ju-

dicial Functions and Political Subdivisions and as printed on pages 167 and 168 of the Journal, be adopted.

Delegate Longmire moved that the Convention dispense with the reading of the amendments to Proposal 1-13, which motion prevailed.

The question then was on the motion to adopt the amendments to Proposal 1-13 as recommended by the Committee on Judicial Functions and Political Subdivisions, which motion prevailed.

President Wenstrom then declared the Convention would stand recessed until 11 a.m.

The Convention reconvened at 11 a.m., with President Wenstrom presiding.

Delegate Saugstad moved that Resolution A be introduced, which motion prevailed.

INTRODUCTION OF A RESOLUTION

Committee on Finance and Taxation introduced:

Resolution No. A. A resolution recommending that the 43rd Legislative Assembly appropriate moneys for the costs of the special election on the Constitutional Convention's proposed constitution.

Was read the first time.

Delegate Saugstad moved that the rules be suspended, and Resolution A be read in its entirety, placed in the Journal, not be printed as a proposal, not assigned to committee, and placed on final passage, which motion prevailed.

RESOLUTION No. A

Introduced by Committee on Finance and Taxation

1 A resolution recommending that the 43rd Legislative Assembly
2 appropriate moneys for the costs of the special election on the
3 Constitutional Convention's proposed constitution.

4 WHEREAS, the North Dakota Constitutional Convention is
5 conducting a revision or rewriting of the constitution of the
6 state of North Dakota; and

7 WHEREAS, pursuant to the enabling legislation a special
8 election on the acceptance or rejection of the proposed revision
9 or rewriting must be conducted; and

10 WHEREAS, the various counties of the state must bear the
11 cost of such special election;

12 NOW, THEREFORE, BE IT RESOLVED BY THE NORTH
12a DAKOTA

13 CONSTITUTIONAL CONVENTION:

14 That the 43rd Legislative Assembly be urged to appropriate
15 moneys from the state general fund to compensate the counties
15a of

16 the state for the necessary costs incurred as a result of the
17 special election held to approve or disapprove the document
17a drafted

18 by the 1972 Constitutional Convention.

19 BE IT FURTHER RESOLVED, that the clerk of the conven-
19a tion

20 forward a copy of this resolution to the Budget Committee of
20a the

21 Legislative Council and the president of the Senate, the speaker
22 of the House and the majority and minority leaders of the

23 Senate and House who served during the 42nd Legislative
23a Assembly.

The question then was on the adoption of Resolution A, which Resolution was adopted on a voice vote.

MOTION

Delegate Scheel moved that Resolution B be introduced, which motion prevailed.

INTRODUCTION OF A RESOLUTION

The Committee on Resolutions introduced:

Resolution No. B. A resolution wishing for a speedy recovery of Delegate Darold Benz and return to his duties at the Constitutional Convention.

Was read the first time.

Delegate Scheel moved that the rules be suspended, and Resolution B be read in its entirety, placed in the Journal, not be printed as a Proposal, and placed on final passage, which motion prevailed.

Introduced by Committee on Resolutions

1 A resolution wishing for a speedy recovery of Delegate Darold
2 Benz and return to his duties at the Constitutional Convention.

3
4 **WHEREAS**, Delegate Darold Benz has been absent since
5 Monday, January 10, 1972, and is hospitalized and has under-
5a gone

6 surgery; and
7 **WHEREAS**, the delegates of the Constitutional Convention
7a wish

8 his early return to the Convention, that he may assist with its
9 work; and

10 **WHEREAS**, Delegate Benz has earned the high regard of
11 colleagues grateful for his dedication, humor and imagination;

12 **NOW, THEREFORE, BE IT RESOLVED BY THE NORTH**
12a **DAKOTA**

13 **CONSTITUTIONAL CONVENTION:**

14 That we direct our best wishes for his speedy
15 recovery and that a floral arrangement expressive of those
16 wishes be sent forthwith to bring cheer and encouragement to
17 him in his hospital room.

The question then was on the adoption of Resolution B, which Resolution was adopted on a voice vote.

MOTIONS

Delegate Haugen moved that Committee Proposal 1-23 as amended be returned to the Committee on Finance and Taxation, which motion prevailed.

Delegate Daniels moved that the remarks of Delegate Billey in regard to Proposal 1-18 be printed in the Journal, which motion prevailed.

**STATEMENT OF DELEGATE BILLEY
ON COMMITTEE PROPOSAL 1-18**

Delegate Daniels moved that the remarks of Delegate Billey regarding Committee Proposal 1-18 be printed in the Journal.
"Fellow Delegates:

"I have mixed emotions regarding this Committee Proposal. On behalf of my community of Ellendale and its residents, I re-

spectfully request that you approve this report. The repeal of the third paragraph of Section 216 represents the last step in authorizing the sale of the entire Ellendale campus to the Trinity Bible Institute of Jamestown. This special committee in charge of finding a buyer for this campus has made a tentative agreement with the Institute. As some of you probably know, if this Convention and the electorate do not approve this change, an amendment to remove Paragraph 3 will appear on the Primary Election ballot in September. I cannot emphasize too strongly, Ellendale wants this matter resolved at the earliest possible time.

"Now, for the benefit of a couple of delegates who would like to know the reasons for voting before we vote, I would like to explain why I intend to vote 'No.'

"First of all, Commissioner Raschke testified at the August meeting of the Education, Resources and Public Lands Committee, and he stated he has 'no strong feelings on the institutions being placed by name in the Constitution, but would like to make it possible for the Legislature and the Board of Higher Education to eliminate one if changed circumstances demand it.' That language is in the Committee Minutes on page 5, if anyone cares to check.

"I believe that these two sections should be retained, and I agree with the Commissioner that language should be added to set forth a procedure to terminate any public institution.

"Second, the Interim Report which you have on your desk, under the Section 215, we have a statement in there that says the Committee appeared to feel the Legislature should be allowed to deal with the various institutions if an emergency arose, such as the Ellendale situation, and should not be forced to maintain an institution if it were not in the best interests of the state to do so.

"I do not believe that the best interests of the state of North Dakota are being served by selling the Ellendale campus, valued at \$3 million, for \$1.00, until every use for the benefit of the people of North Dakota has been investigated. The Legislative Study that was conducted after the fire in 1970 represents the last in-depth look at alternative uses for the Ellendale campus, and it did not recommend closure. In recent weeks, one announced candidate for governor and another likely candidate for governor, as well as a daily newspaper in this state, editorially, have advocated an expansion of vocational education. It is my contention that there has been no hearing on, or any feasibility study of, utilizing this campus for vocational-technical education.

"Third, the Interim Report under Section 216 states: 'The Committee appeared to feel that the Legislature should be allowed to adjust the locations of the institutions if the necessity arose, but the provisions of the grant should continue until one or more specific institutions ceased to exist.'

"One candidate interpreted that language to mean that the Legislature could play checkers with our public institutions. I certainly hope this is not the case.

"The closure of Ellendale, in my opinion, is a first step in the direction of reducing the number of institutions of higher education in this state. I firmly believe that higher education needs some changes; however, I think it should be done with a master plan to realign programs of higher education. The changes should not come about by closing the institutions one at a time.

"As a taxpayer, I oppose the disposal of \$3 million worth of buildings and property, while we have millions of dollars worth of new buildings being constructed in other locations.

"Fourth, and finally, since I know we are all anxious to get to lunch, I object to the repeal of the language at the end of the

Section 216, and I quote: '. . . provided, that no other institution of a character similar to any one of those located by this Article shall be established or maintained without a revision of this Constitution.' Repeal of this language could open the door for the Legislature to acquire by gift or purchase, I feel, without obtaining the approval of the people, of more educational institutions such as any one of the junior colleges now owned by local school districts, or even possibly a private college. If we cannot afford to operate our existing institutions of higher education, how can we afford to take on new responsibilities?

"I believe the people of North Dakota should retain this right to say whether or not they want to accept any additional public institutions.

"Now I have spoken on both sides of the question. Really what I would like to see is that these two sections be retained, and that the repeal language regarding the Ellendale question be presented to the people as a separate question. I realize it is not an emotional issue and will not probably affect the outcome on the final vote of our basic package. However, by presenting it as a separate question, it would get the Ellendale question solved at the time of the election on the Constitution, and I believe it would be effective regardless of whether the basic document fails to pass.

"As I stated earlier, the thing that I want most — and the thing that the people of my community want most — is to have this question resolved as quickly as possible.

"I thank you for your patience."

MOTIONS

Delegate Maxwell moved that Proposal 1-81 be returned to the floor of the Convention from the Committee on Preamble, Bill of Rights and Suffrage, which motion prevailed.

Delegate Maxwell moved that Proposal 1-81 be re-referred to the Committee on Legislative Functions, which motion prevailed.

CONSIDERATION OF AMENDMENTS

Delegate Meidinger has moved that the amendments to Committee Proposal 1-20, as recommended by the Committee on Education, Resources and Public Lands, and as printed on page 156 of the Journal, be adopted, which motion prevailed.

Delegate Hoffner has moved that the amendments to Committee Proposal 1-39, as recommended by the Committee on Legislative Functions and as printed on page 156 of the Journal, be adopted, which motion prevailed.

Delegate Hoffner has moved that the amendments to Committee Proposal 1-43, as recommended by the Committee on Legislative Functions and as printed on page 156 of the Journal, be adopted, which motion prevailed.

FIRST READING OF A PROPOSAL

Committee Proposal No. 1-19. Be it resolved by the North Dakota Constitutional Convention that section 210 of the constitution of the state of North Dakota be repealed; and that article IX to the constitution of the state of North Dakota be created; both of which pertain to appropriation of waters.

Which has been read.

ROLL CALL

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

Those voting in the affirmative were:

Aubol	Engstrom	Ketchum	Rosendahl
Bassingthwaite	Erickson	Knudson	Rude

Bender	Fallgatter	Kretschmar	Sanstead
Benson	Fiedler	Kwako	Saugstad
Berg	Fritzell	Lamb	Scheel
Billey	Geelan	Lander	Schmit
Binek	Gipp	Larsen	Simonson
Birkeland	Griffin	Lerberg	Sinner
Brakke	Hardmeyer	Litten	Sondreal
Burbidge	Hartl	Longmire	Sullivan
Burke	Hendrickson	McIntyre	Thompson
Butler	Hernett	Maxwell	Trenbeath
Chase	Hildebrand	Meidinger	Tudor
Christensen	Hoffner	Miller	Unruh
Daniels	Hoghaug	Nething	Urdahl
Dawson	Hougen	Nicholas	Vogel
Decker	Hubrig	Omdahl	Wallin
Devine	Huckle	Peters	Warner
Diehl	Jestrab	Poulson	Wicks
Dobson	Kelsch	Quam	Mr. President
Engelter	Kessel	Roney	

Those voting in the negative were:

Aas	Cart	O'Toole	Peterson
Baker	Haugen	Paulson	Rundle
Byrne	McElroy	Pearce	Solberg

Absent and not voting:

Benz	Hill	Stanton
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So the proposal passed and the title was agreed to.

REPORTS OF SUBSTANTIVE COMMITTEES

Mr. President: Your Committee on Finance and Taxation to whom was referred Committee Proposal No. 1-24 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.

Mr. President: Your Committee on Legislative Functions to whom was referred Committee Proposal No. 1-40 has had the same under consideration and recommends that the same be amended as follows:

On line 2 delete the word **"legislative"**

On line 3 after the word **"auditor"** insert the word **"general"**

Delete all of lines 8, 9, and 10 and insert in lieu thereof the following:

"Section 28. The legislative assembly shall provide for the appointment of an auditor general. He shall audit the receipt, expenditure and use of public funds as provided by law and shall be responsible to the legislative assembly in the performance of those duties."

And renumber the lines accordingly.

And when so amended recommends the same do pass.

DELEGATE HOFFNER, Chairman

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

Mr. President: Your Committee on Legislative Functions to whom was referred Committee Proposal No. 1-42 has had the same under consideration and recommends that the same be returned without recommendation.

DELEGATE HOFFNER, Chairman

Delegate Hoffner 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. 1-63

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. 1-67 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. 1-78 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. 1-84 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 Delegate Proposal No. 2-26 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.

Delegate Kelsch moved that the Committee Report on Delegate Proposal 2-69 be laid over until such time as the Committee Proposal dealing with the same subject be acted upon, which motion prevailed.

INTRODUCTION OF COMMITTEE PROPOSALS

Committee on Executive Functions introduced:

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.

Was read the first time and referred to the Committee on Executive Functions.

Committee on Preamble, Bill of Rights and Suffrage introduced:

Committee Proposal No. 1-92. Be it resolved by the North Dakota Constitutional Convention that section 19 of the present constitution of the state of North Dakota, which pertains to treason against the state, be retained.

Was read the first time and referred to the Committee on Preamble, Bill of Rights and Suffrage.

Committee on Education, Resources and Public Lands introduced:

Committee Proposal No. 1-93. Be it resolved by the North Dakota Constitutional Convention that section 146 of the constitution of the state of North Dakota, which pertains to the controlling of prices, be repealed.

Was read the first time and referred to the Committee on Education, Resources and Public Lands.

Committee on Education, Resources and Public Lands introduced:

Committee Proposal No. 1-94. Be it resolved by the North Dakota Constitutional Convention that section 142 of the constitution of the state of North Dakota, which pertains to the regulation of common carrier corporations, be repealed.

Was read the first time and referred to the Committee on Education, Resources and Public Lands.

Committee on Education, Resources and Public Lands introduced:

Committee Proposal No. 1-95. Be it resolved by the North Dakota Constitutional Convention that section 135 of the constitution of the state of North Dakota, which pertains to cumulative voting in corporations, be repealed.

Was read the first time and referred to the Committee on Education, Resources and Public Lands.

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

Committee Proposal No. 1-19

Which motion prevailed.

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

Delegate Saugstad moved that the Convention be adjourned until 9:00 a.m., Friday, January 14, 1972, which motion prevailed.

ROY GILBREATH, Chief Clerk