

TUESDAY, July 16, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

The President presiding.

Prayer was offered by the Chaplain.

The roll was called, all members being present except Mr. Whipple, excused.

Mr. Miller moved that articles printed as files be omitted from the reading of the Journal.

Which motion prevailed.

The Journal of the preceding session was read and approved.

FIRST READING OF ARTICLES, RESOLUTIONS, ETC.

Mr. Spalding introduced the following resolution and moved its adoption:

*Resolved*, That no proposed articles be received by this Convention unless by unanimous consent, after the close of the session of Monday, July 22; *Provided*, however, that this shall not limit the reports of committees either of matter submitted to or originating with them.

Which resolution was adopted.

Mr. Allin introduced File No. 49—

*Resolved*, That a board of supervisors, consisting of one from each organized township, shall be established in each county in North Dakota, with such powers as shall be prescribed by law.

Which was read the first time.

Mr. Colton introduced File No. 50—

REVENUE AND TAXATION.

SECTION 1. The Lieutenant-Governor, Secretary of State and State Auditor shall constitute a board of assessors, whose duty it shall be to assess each year each railroad in the State of North Dakota, including its road bed, rolling stock and all buildings used for railroad purposes. They shall divide the gross assessment of each railroad company so assessed by the number of miles of road owned and operated by said company in this state, and the result shall constitute the assessment per mile for the road so assessed. Said board shall also ascertain the number of miles of railroad owned and operated by each railroad company in each and every county in this state, and multiply the assessment per mile for said railroad company by the number of miles of road owned and operated by said company in each county of this state. The result shall be the

amount for which said railroad company shall be assessed in said county, and be subject to the same levy as other property in the respective locality where it is situated; *Provided*, however, that said board of assessors shall in no case assess any railroad company less than three thousand dollars (\$3,000) nor more than seven thousand dollars (\$7,000) per mile, and the Legislature shall make necessary laws to enforce the provisions of this article.

Which was read the first time.

Mr. Camp introduced File No. 51 (to be submitted to a separate vote as provided by the schedule and ordinance).

CLAUSE 1. No person shall manufacture or aid in the manufacture of any intoxicating liquors for sale; no person shall sell or keep for sale any intoxicating liquors to be used as a beverage. The Legislature shall by law prescribe regulations for the enforcement of the provisions of this section and provide suitable and adequate penalties for the violation thereof.

CLAUSE 2. The manufacture of intoxicating liquors shall not be prohibited; the sale of intoxicating liquors to be used as a beverage shall not be prohibited. The sale of intoxicating liquors to be drunk on or about the premises where sold may be restricted and regulated by law as to the time and place of sale and the persons to whom such liquors may be sold. No person shall be required to pay for the privilege of manufacturing or selling intoxicating liquors a license fee or fees amounting in the aggregate to more than one thousand dollars per annum, for each place of business where such person shall manufacture or sell such liquors.

And in the Ordinance the following provisions relating to the foregoing clauses shall be inserted.

Every voter who desires that the first clause of Article —, relating to the prohibition of the sale of intoxicating liquors, shall be a part of this Constitution, shall have written or printed upon his ballot the words: "Prohibition.—First clause." Every voter who desires that the second clause of said Article —, shall be a part of this Constitution, shall have written or printed on his ballot the words: "Prohibition.—Second clause." Every voter who desires that neither of said clauses of said Article —, shall be a part of this Constitution shall have written or printed on his ballot the words: "Prohibition.—Neither clause."

If it shall appear according to the returns that a majority of all the votes cast on said article so separately submitted are for the said first clause, then said first clause shall be and form a part of this Constitution, and be in full force and effect as such and shall constitute Article — thereof. If it shall appear according to the returns that a majority of all the votes cast on said Article so separately submitted, are for the said second clause, then said second clause shall be and form part of this Constitution, and be in full force and effect as such and shall constitute Article — thereof. If it shall appear according to the returns that neither said first nor said second clause has received a majority of all votes cast on said Article —, then neither one of said clauses shall form any part of this Constitution.

Which was read the first time.

Mr. Bean introduced File No. 52--

#### PROBATE COURTS.

SECTION 1. There shall be established in each organized county of the state a probate court, which shall be a court of record, and be held at such times and places as may be prescribed by law. It shall be held by one judge, who shall be elected by the electors of the county for the term of two years. He shall be learned in the law, a qualified elector of the county at the time of his election, and shall reside therein during his continuance in office. His compensation shall be provided by law. He may appoint his own clerk, where

none has been elected, but the Legislature may authorize the election, by the electors of any county, of one clerk or register of probate, for such county, whose powers and duties shall be prescribed by law.

SEC. 2. The probate court shall have jurisdiction over the estates of deceased persons and persons under guardianship.

Which was read the first time.

Mr. Linwell introduced File No. 53--

All property, both real and personal, of the wife, owned or claimed by marriage, and that acquired afterwards by gift, devise or descent, shall be her property, and laws shall be passed more clearly defining the rights of the wife in relation as well to her separate property as to that held in common with her husband.

Laws shall also be passed providing for the registration of the wife's separate property.

Which was read the first time.

Also File No. 54---

Justices of the peace shall have jurisdiction in any case in which the matter in dispute, is a money demand, or personal property, and the amount of the demand does not exceed two hundred dollars (\$200), but shall have no jurisdiction when the boundaries or title to real property shall be called in question.

Which was read the first time.

Mr. Gray introduced File No. 55—

That none of the lands granted by Congress to the State of North Dakota for school purposes, shall ever be sold, granted or in any way disposed of, other than leased. Nor shall any moneys accruing from said lands be used for any purpose other than the support of the public schools of the state.

Which was read the first time.

Also File No. 56—

#### MUNICIPAL SUBSCRIPTIONS TO RAILROADS OR PRIVATE CORPORATIONS.

No county, city, town, township or other municipality, shall ever become subscriber to the capital stock of any railroad or private corporation, or make donation to or loan its credit in aid of such corporation; *Provided*, however, that the adoption of this article shall not be construed as affecting the right of any such municipality to make such subscriptions where the same have been authorized under existing laws by a vote of the people of such municipalities prior to such adoption.

Which was read the first time.

Mr. Stevens introduced File No. 57—

#### PREAMBLE.

God in His infinite mercy having prospered us as a territory; and looking to Him for a blessing upon our present endeavor to secure and transmit unimpaired to succeeding generations the liberty we now enjoy; and that we may form a more perfect government, establish justice, insure peace and domestic tranquility, provide for the common defense, and promote general prosperity to ourselves and our posterity, do ordain and establish this constitution for the State of North Dakota.

Which was read the first time.

Mr. Blewitt introduced File No. 58—

Should the manufacture and sale of intoxicating liquors ever be prohibited by this state, either by constitutional or legislative enactment, then and in such case the state shall purchase at their full value all breweries or distilleries closed by the operation of said prohibitory law.

Which was read the first time.

Mr. Lowell introduced File No. 59—

SECTION 1. The name of this state shall be called and known as the State of "North Dakota."

Sec. 2. The State of North Dakota shall consist of all the territory included within the following boundaries to-wit: Commencing at a point in the main channel of the Red river of the north, where the forty-ninth degree of north latitude crosses the same, from thence south up the main channel of the same and along the boundary line of the State of Minnesota to a point where the seventh standard parallel intersects the same; thence west along said seventh standard parallel, to a point where it intersects the twenty-seventh meridian of longitude west from Washington; thence north on said meridian to a point where it intersects the forty-ninth degree of north latitude; thence east along said line to place of beginning.

Which was read the first time.

Mr. Carothers introduced File No. 60---

The General Assembly shall have no power to authorize lotteries or gift enterprises, for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets in this state.

Which was read the first time.

Mr. Robertson introduced File No. 61—

Suitable Laws shall be passed by the Legislature for the safe keeping, transfer, and disbursement of the state and school funds, and all officers and other persons charged with the same or any part of the same or the safe keeping thereof, shall be required to give ample security for all moneys and funds of any kind received by them; to make forthwith and keep an accurate entry of each sum received and of each payment and transfer, and if any of said officers or other persons shall convert to his own use, in any manner or form, or shall loan, with or without interest, or shall deposit in his own name or otherwise than in the name of the State of North Dakota, or shall deposit in banks or with any person or persons, or exchange for other funds or property any portion of the funds of the State, or of the school funds aforesaid, except in the manner prescribed by law, every such act shall be and constitute an embezzlement of so much of the aforesaid State and school funds or either of the same as shall be thus taken, or loaned, or deposited, or exchanged and *shall be a felony*, and any failure to pay over, produce or account for the State school funds or any part of the same entrusted to such officer or person as by law required or demanded, shall be held and be taken to be *prima facie* evidence of such embezzlement.

Which was read the first time.

Mr. Miller introduced File No. 62—

The Legislature shall be empowered to make further extensions of suffrage hereafter at its discretion to all citizens of mature age and sound mind not convicted of crime, without regard to sex, but shall not restrict suffrage without a vote of the people.

Which was read the first time.

Mr. Miller moved that during the continuance of the Convention that files on their second reading be read by title only.

Which motion prevailed.

Mr. Stevens moved that File No. 25 be referred to the Committee of the Whole, to be considered July 17.

Which motion prevailed.

## SECOND READING OF FILES.

File No. 20 was read the second time and referred to the Committee on Apportionment.

File No. 21 was read the second time and referred to the Committee on Public Debt.

File No. 22 was read the second time and referred to the Committee on Judiciary.

File No. 23 was read the second time and referred to the Committee on Revenue and Taxation.

File No. 24 was read the second time and referred to the Committee on Temperance.

File No. 25 was read the second time and referred to Committee of the Whole.

File No. 26 was read the second time and referred to the Committee on Legislative Department.

File No. 27 was read the second time and referred to the Committee on Temperance.

File No. 28 was read the second time and referred to the Committee on Legislative Department.

File No. 29 was read the second time and referred to the Committee on Elective Franchise.

File No. 30 was read the second time and referred to the Committee on Temperance.

File No. 31 was read the second time and referred to the Committee on Legislative Department.

File No. 32 was read the second time and referred to the Committee on Revenue and Taxation.

File No. 33 was read the second time and referred to the Committee on Apportionment.

File No. 34 was read the second time and referred to the Committee on Militia.

File No. 35 was read the second time and referred to the Committee on Elective Franchise.

File No. 36 was read the second time and referred to the Committee on Miscellaneous.

File No. 37 was read the second time and referred to the Committee on Legislative Department.

File No. 38 was read the second time and referred to the Committee on Preamble.

File No. 39 was read the second time and referred to the Committee on Militia.

File No. 40 was read the second time and referred to the Committee on Taxation.

File No. 41 was read the second time and referred to the Committee on Municipal Corporations.

File No. 42 was read the second time and referred to the Committee on Revenue and Taxation.

File No. 43 was read the second time and referred to the Committee on Education.

File No. 44 was read the second time and referred to the Committee on Revenue and Taxation.

File No. 45 was read the second time and referred to the Committee on Legislative Department.

File No. 46 was read the second time and referred to the Committee on Revenue and Taxation.

File No. 47 was read the second time and referred to the Committee on Education.

File No. 48 was read the second time and referred to the Committee on Preamble and Legislative Department.

Mr. Miller introduced the following resolution and moved its adoption:

*Resolved*, That the various committees of the Convention be empowered to employ clerical assistance when they deem the same necessary, and that the Legislature at its first session make an appropriation to pay said clerks such sum as may be certified to by the Chief Clerk and President of this Convention.

Which resolution was adopted.

#### REPORTS OF STANDING COMMITTEES.

The President called Mr. Williams to the chair.

The Committee on County and Township Organization presented the following report:

*To the Constitutional Convention of North Dakota:*

Your Committee on County and Township Organization beg leave to submit the report embodied in the proposed article on county and township organization hereto attached.

Dated July 16, 1889.

A. F. APPLFON,  
Chairman.

#### COUNTY AND TOWNSHIP ORGANIZATION.

SECTION 1. The several counties of the territory of Dakota lying north of the seventh standard parallel, as they now exist, are hereby declared to be counties of the State of North Dakota.

SEC. 2. The Legislature shall provide by general law for organizing new counties, locating the county seats thereof temporarily and changing county lines; but no new county shall be organized nor shall any organized county be so reduced as to include an area of less than twenty-four congressional townships, and containing a population of less than 1,000 *bona fide* inhabitants. And in the organization of new counties and in changing the lines of organized counties the boundaries of congressional townships and natural boundaries shall be observed as nearly as may be.

Sec. 3. All changes in county boundaries in counties already organized, before taking effect shall be submitted to the electors of the county or counties to be affected thereby, at the next general election thereafter, and be adopted by a majority of the legal votes cast in each county at such election; and in case any portion of an organized county is so stricken off and added to another, the county to which such portion is added shall assume and be holden for such portions, part and proportion of the indebtedness of the county or counties from which it was so stricken.

Sec. 4. In counties already organized, where the county seat has not been located by vote of the people, it shall be the duty of the County Board to submit the location of the county seat to the electors of said county at the first general election after the admission of the State of North Dakota into the Union, and the place receiving a majority of all votes cast at said election shall be the county seat of said county. If, at said election, no place receive a majority of all the votes cast, it shall be the duty of the County Board of said county to re-submit the location of the county seat to the electors of said county at the next general election thereafter; and the electors at said election shall vote for one of the two places receiving the highest number of votes at the preceding election. The place receiving the majority of all the votes cast for county seat at said second election shall be the county seat of said county.

Sec. 5. Whenever a majority of all the legal voters of any organized county shall petition the county board to change the location of the county seat which has once been located by a vote of the people specifying the place to which it is to be changed, said county board shall submit the question to the voters of said county at the next general election, and if the proposition to so change the county seat be ratified by two-thirds of all the votes cast at said election then the county seat shall be so changed, otherwise not. A proposition to change the location of the county seat of any organized county shall not be submitted oftener than once in six years.

Sec. 6. The Legislature shall have no power to remove the county seat of any organized county.

Sec. 7. The Legislature shall provide by general law for organizing the counties into townships, having due regard for congressional township lines and natural boundaries, and whenever the population is sufficient and the natural boundaries will permit, the civil townships shall be co-extensive with the congressional townships.

Sec. 8. In each organized county at the first general election held after the admission of the State of North Dakota into the Union, and every two years thereafter, there shall be elected a clerk of the court, sheriff, county auditor, register of deeds, treasurer, state's attorney, surveyor, coroner and superintendent of schools, whose terms of office respectively shall be two years, and, except the clerk of court, no person shall be eligible for more than four years in succession to any of the above named offices.

Sec. 9. In each organized civil township there shall be elected, at the first general election, for such terms as the Legislature may by law prescribe, three township supervisors, one of whom shall be designated chairman, and the chairmen of the several boards of township supervisors shall together constitute the county board of their respective counties.

Sec. 10. The Legislature shall provide by general law for such other county, township and district officers as may be deemed necessary, and shall prescribe the duties and compensation of all county, township and district officers.

Sec. 11. All county, township and district officers shall be electors in the county, township or district in which they are elected, except as otherwise provided in this Constitution.

The Judiciary Committee submitted the following report:

Mr. Scott offered the following resolution and moved that it be referred to the Judiciary Committee:

*Resolved*, That no judge of any court established under this Constitution shall, after the adoption thereof, be allowed to draw or receive any salary unless he shall take and subscribe an affidavit before an officer entitled to administer oaths, that no cause in his court remains undecided, that has been submitted for decision for the period of ninety days.

*To the Constitutional Convention of North Dakota:* The Judiciary Committee, to whom was referred the above article or proposition, report the same back, with the opinion that it is inadvisable to incorporate the same in the Constitution; but the matter therein referred to ought to be left to the Legislature to adopt such regulations as the necessities of the case may require.

JOHN E. CARLAND,  
Chairman.

*To the Constitutional Convention of North Dakota:*

The Judicial Committee to whom was referred File No. 3 have had the same under consideration and respectfully recommend that the annexed article be substituted therefor and made a part of the proposed Constitution of North Dakota, and that the matter of the non-sectarian character of the public schools be left to the Committee on Education.

JOHN E. CARLAND,  
Chairman.

COMPACT WITH THE UNITED STATES.

The following article shall be irrevocable without the consent of the United States and the people of this state. First, that perfect toleration of religious sentiment shall be secured, and that no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship; second, that the people inhabiting this state do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States the same shall be and remain subject to the disposition of the United States, and that said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States residing without this state shall never be taxed at a higher rate than the lands belonging to residents of this state, that no taxes shall be imposed by this state on lands or property therein belonging to, or which may hereafter be purchased by the United States or reserved for its use. But nothing in this article shall preclude this state from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any acts of Congress containing a provision exempting the lands thus granted from taxation, which said last mentioned lands shall be exempt from taxation, so long, and to such extent as is, or may be provided in the act of congress granting the same; that the State of North Dakota hereby assumes and agrees to pay, of the indebtedness of the Territory of Dakota, the sum mentioned in Article — of this constitution.

*To the Constitutional Convention of North Dakota:*

The Committee on the Judicial Department to whom was referred File No. 18, hereto annexed, respectfully report the same back with the recommendation that the matter therein should con-



stitute a section under the head of the Legislative Department of the Constitution.

JOHN E. CARLAND,  
Chairman.

Mr. Camp moved that File No. 18 be referred to the Legislative Committee.

Which motion prevailed.

*To the Constitutional Convention of North Dakota:*

The Judiciary Committee to whom was referred File No. 10, hereto annexed, respectfully report the same back with the information that the Committee on the Judicial Department will report an article or section covering the matters therein referred to.

JOHN E. CARLAND,  
Chairman.

*To the Constitutional Convention of North Dakota:*

The Judiciary Committee to whom was referred File No. 8, report the same back with the recommendation that the same be referred to the Committee on Executive Department.

JOHN E. CARLAND,  
Chairman.

Mr. Camp moved that the report be adopted.

Which motion prevailed.

MR. PRESIDENT:

Your committee to whom the annexed resolution pertaining to the compensation of the stenographer of this Convention was referred, respectfully report:

Your committee recommend that said resolution be amended to read "ten dollars per diem" and "fifteen cents per folio for transcribing," and that as so amended the said resolution be adopted.

J. F. SELBY,  
Chairman.

Mr. Blewett moved that the report be adopted.

Which motion prevailed.

Mr. Miller moved to adjourn.

Which motion was lost.

Mr. Parsons, of Morton, moved that all matter submitted to the Convention under the second head of the order of business, which matter is printed in the files and upon the desk of each member, be printed in the minutes by name or number of the file only

Mr. Wallace moved to lay the motion on the table.

Mr. Clapp moved to reconsider the vote by which the report of the Committee on Printing was adopted.

Mr. Parsons, of Morton, withdrew his motion.

Mr. Wellwood moved that the vote by which the report of the Committee on Reporting and Publication was adopted be reconsidered.

Which motion prevailed.

Mr. Stevens moved that the report be referred to the Committee of the Whole.

Which motion prevailed.

Mr. Noble moved to adjourn.

Which motion prevailed, and the Convention adjourned.

J. G. HAMILTON,  
Chief Clerk.

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WEDNESDAY, July 17, 1889.

The Convention assembled at 2 o'clock p. m., pursuant to adjournment.

The President presiding.

Prayer was offered by the Chaplain.

The roll was called, all members being present except Mr. Whipple, excused.

The Journal of the preceding session was read and approved.

FIRST READING OF ARTICLES, RESOLUTIONS, ETC.

Mr. Appleton introduced File No. 65—

SECTION 1. The Legislative power shall be vested in a Legislature, which shall consist of a Senate and House of Representatives.

SEC. 2. The number of members of the House of Representatives shall not be less than sixty nor more than one hundred and twenty. The number of members of the Senate shall not be less than thirty nor more than sixty.

SEC. 3. The terms of the office of the members of the Legislature shall be two years. They shall receive for their services the sum of four hundred dollars, and ten cents for every mile of necessary travel in going to and returning from the place of meeting of the Legislature on the most usual route.

Which was read the first time.

Also File No. 66.

LEGISLATIVE APPORTIONMENT.

SECTION 1. Until otherwise provided by law the House of Representatives shall consist of sixty-two members, and the Senate shall consist of thirty-one members.

SEC. 2. The basis of representation shall be one Representative for each seven hundred voters, and one Senator for each one thousand four hundred voters. Said vote to be ascertained from the vote cast for delegates to Congress at the last general election.

Which was read the first time.

Mr. Miller introduced File No. 67—

No municipal corporation shall ever become indebted in any manner or for any purpose in any amount, in the aggregate, including existing indebtedness, exceeding — percentum, upon the value of the taxable property within such corporation, to be ascertained from the last assessment for state and county taxes previous to the incurring of such indebtedness, and all bonds or obliga-