

# Journal of the Convention.

SATURDAY, July 20, 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 and all absent members were excused.

Mr Williams moved that the reading of the Journal be dispensed with.

Which motion prevailed.

Mr. Williams moved that the rules be suspended and articles be read by their titles only.

Which motion prevailed.

## FIRST READING OF ARTICLES, RESOLUTIONS, ETC.

Mr. Turner introduced File No. 105.

## ELECTIONS.

SECTION 1. All elections in this state shall be by secret ballot, and the booth in which the elector shall mark his ballot shall be so situated as to prevent any communication with him or any knowledge of how he votes, by any other person.

SEC. 2. All ballots and ballot boxes shall be provided by the state and counties, respectively, for their own elections, and by the state for United States elections, and there shall be separate tickets and boxes, first for national, second for state and third for county officials.

SEC. 3. All electors must be registered ninety days before the day of election, and certified copies prepared by the clerk or auditor of each township, municipality or county for each polling place therein, and all lists must be certified to as being true according to the certified list of the court of examiners.

SEC. 4. The following shall be the only purposes for which funds may be used in, before or after elections, by any candidate or his agents, or any other person or persons in his behalf: Renting halls for political meetings, printing, postage in circulating political literature, newspaper advertising and the payment of public speakers and traveling expenses connected with campaign work.

SEC. 5. Any person giving, receiving or offering a bribe to influence a vote or as a reward for his vote, shall forever be disqualified from holding any office and from exercising the right of franchise in this state.

Mr. Williams introduced File No. 106.

CONSTITUTION  
OF  
NORTH DAKOTA.

PREAMBLE.

WE, the people of North Dakota, grateful to Almighty God for the blessings of civil and religious liberty, do ordain and establish this constitution.

Part 1—The State.

ARTICLE I.

DESIGNATION OF THE STATE.

SECTION 1. The name of this state shall be North Dakota.

SEC. 2. The boundaries of this state are and shall remain as follows, that is to say: 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.

ARTICLE II.

RELATION OF THE STATE TO THE UNITED STATES.

SECTION 1. The State of North Dakota is an inseparable part of the Union, and the Constitution of the United States is the supreme law of the land.

SEC. 2. United States senators shall be elected from time to time by the general assembly, as prescribed by law.

SEC. 3. Until otherwise provided by law, the members of the house of representatives of the United States apportioned to this state shall be elected by the state at large.

SEC. 4. No change shall be made, either by act of the general assembly or by constitutional amendment, which is inconsistent with or repugnant to a republican form of government.

SEC. 5. 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 no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship; sec-

only, that the people inhabiting this state do agree and declare that they forever disclaim all right and title to the unappropriated public lands of the United States lying within the state, and that the same shall be and remain at the sole and entire disposition of the United States, and that the lands belonging to citizens of the United States residing without this state shall never be taxed higher than the lands belonging to residents thereof, and that no taxes shall be imposed by the state on lands or property therein belonging to, or which may hereafter be purchased by the United States.

**Part II.—The People.**

**CHAP. I.—Individuals.**

**ARTICLE III.**

**DECLARATION OF RIGHTS.**

*(1.) Natural Rights.*

**SECTION 1.** All men are born equally free and independent, and have certain inherent, inalienable and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness.

**SEC. 2.** All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences, and no person shall be denied any civil or political right, privilege or capacity on account of his religious opinions. No man can of right be compelled to attend, erect or support any place of worship or to maintain any minister of religion against his consent. No preference shall ever be given by law to any religious establishment or mode of worship; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness or justify practices inconsistent with the peace or safety of the state.

**SEC. 3.** No title of nobility or hereditary distinction, privilege, honor or emolument shall ever be granted or conferred in this state.

**SEC. 4.** Emigration from the state shall not be prohibited.

**SEC. 5.** Aliens who are *bona fide* residents of this state shall have the rights of citizens with regard to the acquisition, possession, transfer and descent of property.

**SEC. 6.** Every man shall have the right freely to write, speak and publish his opinions on all subjects, being responsible for the abuse of that privilege. In all civil and criminal trials for libel, the truth may be given in evidence, and shall be a sufficient de-

fense when the matter is published with good motives and for justifiable ends; and the jury shall have the same power of giving a general verdict as in other cases.

SEC. 7. All political power is inherent in the people, and they have the right to alter, reform or abolish their form of government whenever the public good may require it.

(2.) *Rights as to Crimes—Before Trial.*

SEC. 8. Treason shall consist only in levying war against the state or adhering to its enemies, giving them aid and comfort.

SEC. 9. No person can be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 10. All persons shall be bailable by sufficient surety, except for treason, murder or any capital crime, where the proof is evident or the presumption great.

SEC. 11. Excessive bail shall not be required.

SEC. 12. No person shall be imprisoned for the purpose of procuring his testimony in any case, longer than may be reasonably necessary in order to take his deposition or secure his recognition with sufficient surety.

SEC. 13. The privilege of the writ of *habeas corpus* shall not be suspended except when, in case of rebellion or invasion, the public safety may require it.

SEC. 14. Unless otherwise provided by law, no person shall be held for a capital or otherwise infamous crime, unless on a presentment or indictment of the grand jury, except in cases of impeachment, in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger, and in cases of petit larceny and other minor offenses.

SEC. 15. No *ex post facto* law shall be passed.

SEC. 16. The people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures, and no warrant to search any place or seize any person or thing shall issue without describing them as nearly as may be, and without probable cause supported by oath or affirmation subscribed by the affiant.

*Rights as to Crimes—At Trial.*

SEC. 17. No person shall be deprived of life, liberty or property without due process of law.

SEC. 18. In all criminal prosecutions the accused has a right to a speedy trial by an impartial jury of the county in which the offense was committed; *provided*, that the general assembly shall have power to provide for the trial of crimes not infamous, by a jury of less than twelve.

SEC. 19. The accused has a right to be heard by himself or his counsel, and to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor; and he cannot be compelled to give evidence against himself. But the general assembly may provide for the taking of depositions in criminal cases in presence of the party, when there is reason to believe that any witness from sickness or other cause cannot attend at the trial, and when it is important to preserve the testimony. But such deposition shall not be used if the witness can be personally present at the trial.

SEC. 20. No person shall for the same offense be twice put in jeopardy of his life or liberty.

*Rights as to Crimes—After Trial.*

SEC. 21. Excessive fines shall not be imposed or cruel punishments inflicted, but all punishments and penalties shall be proportioned to the offense.

SEC. 22. Banishment from the state or transportation shall not be allowed as a punishment for crime.

SEC. 23. No bill of attainder shall be passed, and no conviction shall work corruption of blood or forfeiture of estate.

*(3.) Rights as to Civil Matters.*

SEC. 24. No law impairing the obligation of contracts shall be passed.

SEC. 25. Every person for an injury done to him in his person, reputation, property, rights or immunities shall have remedy by due course of law, and right and justice shall be administered freely and without sale, completely and without denial, promptly and without delay.

SEC. 26. In all civil suits the parties may be heard by themselves or their counsel.

SEC. 27. Trial by jury, as has been customary, shall remain inviolate, but a trial by jury may be waived by the parties in all civil cases, in a manner to be prescribed by law; and the general assembly may authorize a trial by a jury of less than twelve men in courts of inferior jurisdiction; and without jury if the right to a jury upon appeal be secured.

SEC. 28. No person shall be imprisoned for debt except in cases of fraud.

SEC. 29. The right of eminent domain shall never be so construed as to prevent the legislature from taking the property or franchises of incorporated companies for public purposes, under the same conditions as those of individuals. And the police powers of the state shall never be so construed as to permit corporations, or individual to conduct their business so as to infringe

the equal rights of other persons or the general well-being of the state.

SEC. 30. Private property shall not be taken for public use without just compensation being first made or secured; the amount whereof shall be determined by due process of law.

SEC. 31. Suits may be brought against the state in such a manner, in such courts and in such cases as the general assembly may by law direct.

(4.) *Rights as to the Military.*

SEC. 32. A well regulated militia being necessary to the security of a free state, the right of the people to bear arms shall not be questioned, but the general assembly shall have the power to prescribe by law the manner in which arms may be borne.

SEC. 33. No standing army shall be kept up in this state in time of peace, and in time of war no appropriation for a standing army shall be for a longer period than two years; and the military shall in all cases and at all times be in strict subordination to the civil power.

SEC. 34. No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

(5.) *Rights as to the Government.*

SEC. 35. The citizens have a right in a peaceable manner to assemble together for the common good, to instruct their representatives, and to apply to those invested with the powers of government, for redress of grievances or other purposes, by petition, address or remonstrance.

SEC. 36. All elections shall be free; and no power, civil or military, shall at any time interfere to prevent the exercise of the right of suffrage.

SEC. 37. This enumeration of certain rights shall not impair, disparage or deny others retained by the people.

## ARTICLE IV.

### MISCELLANEOUS RIGHTS OF INDIVIDUALS.

SEC. 1. A reasonable amount of property to be determined by law, shall be exempt from seizure or sale for the payment of any debt or liability.

SEC. 2. Liberal homestead laws shall be passed by the general assembly.

SEC. 3. The real and personal property of any woman in this state, acquired before marriage, and all property to which she may after marriage become in any manner rightfully entitled,

shall be her separate property, and shall not be liable for the debts of her husband.

## ARTICLE V.

### SUFFRAGE AND ELECTIONS.

#### (1.) *Suffrage.*

SECTION 1. Every male person not under the age of twenty-one years and not an idiot or lunatic and not confined in any public prison, belonging to any one of the following classes, who shall have been an inhabitant of this state one year next preceding an election, and an inhabitant of the county and of the election district in which he shall offer his vote, for the last three months next preceding an election, shall be deemed a qualified elector at such election, and be entitled to vote in such election district, for all officers that now are or hereafter shall be elected by the people, and upon all questions which shall be submitted to the vote of the people. Such electors shall be either;

(1.) Citizens of the United States;

(2.) Persons of Indian blood or of mixed white and Indian blood, who shall have adopted, for not less than two years, the language, customs and habits of civilization;

(3.) Male persons of foreign birth who, not less than two years nor more than five years before offering to vote, shall according to law, have declared their intention to become citizens of the United States.

SEC. 2. No religious test or property qualification shall be required of any voter at any election in this state. But the general assembly may at any time adopt as a general qualification the test of ability to read with facility the Constitution of the United States.

SEC. 3. In time of war, insurrection or rebellion, all persons otherwise entitled under this article to be electors who shall be absent from the place of which they are inhabitants by reason of being in the actual military or naval service of the United States or this state, whether within or without the state, shall, without registration, be entitled to vote in any election occurring during such absence. The votes of all such persons, wherever they may be, may be taken on the day of such election or at any time within twenty days next before said day, and the general assembly shall provide for the manner in which and the time and places at which such absent electors shall vote, and for the return and canvass of their votes in the election districts of which they respectively are inhabitants.

SEC. 4. A person shall be considered an inhabitant for the purposes of this article, of that county and election district within

this state wherein he dwells and has his home. But a person dwelling upon Indian lands, within the state, shall, for the purposes of this article, be deemed an inhabitant of the election district nearest his home, and of the county to which such district belongs.

SEC. 5. For the purposes of this article, no person shall be deemed to have become an inhabitant by reason of his presence or to have ceased to be such by reason of his absence, while engaged in the service, either civil, naval or military, of this state or of the United States, or while employed in the navigation of the waters of this state or of the United States, or of the high seas, or while a student at any institution of learning, or while kept at public expense in any poorhouse or other asylum, or while confined in any public prison; nor shall any person be deemed to have ceased to be an inhabitant by reason of his absence on business of the state or of the United States, or on a visit, or on necessary private business.

(2.) *Elections.*

SEC. 6. All elections by the people shall be by ballot.

SEC. 7. No election shall continue longer than one day, except as otherwise provided for in this constitution.

SEC. 8. The general election of state and county officers, and of members of the general assembly shall, except as otherwise provided in this constitution, be held biennially on the Tuesday next following the first Monday in November, but the general assembly may by law fix a different day for such general election, two-thirds of all the members of each house consenting thereto.

SEC. 9. The general assembly shall immediately, and from time to time, provide by law for a complete and uniform registration by election districts of the names of qualified electors in this state; which registration shall be evidence of the qualification of all registered electors to vote at any election thereafter held; but no person shall be excluded from voting at any election, on account of not being registered, until the general assembly shall have passed an act of registration which shall have gone into effect. No person shall vote, except as provided in this constitution, unless his name shall have been registered as required by law at least ten days before the day of election. A new registration shall be made within sixty days next preceding the tenth day prior to every election; and after it shall have been made no person shall establish his right to vote by the fact that his name appears on any previous register. All laws for the registration of electors shall be uniform throughout the state.

SEC. 10. Any person who shall receive, or offer to receive, or pay, or offer, or promise to pay, or contribute, or offer or promise to contribute to another to be paid or used, any money or other valuable thing, as a compensation or reward for the giving or



withholding any vote at any election, or who shall make any promise to influence the giving or withholding of any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall thereby forfeit the right to vote at such election. Any elector whose right to vote shall be challenged for such cause at the election shall be required to swear or affirm that the matter of the challenge is untrue, before his vote shall be received.

SEC. 11. Any person convicted of wilful violation of the election laws or of false swearing under the provisions of any law enacted in pursuance of Section 10 of this article shall, in addition to any penalties provided by law, be deprived of the right of suffrage for a term of four years.

SEC. 12. Elections for city, ward, district and township officers shall be held annually on the second Tuesday of April.

SEC. 13. The secrecy of the ballot shall be preserved inviolate; and the general assembly shall pass suitable laws to secure the same. All ballots shall be printed, distributed and delivered at the polls to electors for voting, at public expense and under public supervision and at each polling place there shall be provided a sufficient number of booths or compartments, in which the electors singly shall prepare their ballots in secret.

SEC. 14. In the trial of contested elections and in proceedings for the investigations of elections, no person shall be permitted to withhold his testimony upon the ground that it may criminate himself or subject him to public infamy; but such testimony shall not afterwards be used against him in any judicial proceedings, except for perjury in giving such testimony.

SEC. 15. In all elections by the people under this constitution the person or persons who shall receive the highest number of votes shall be declared duly elected.

SEC. 16. No elector during the continuance of an election at which he is entitled to vote, and before he shall have voted thereat, and during the time necessary and convenient for his going to and returning from the same, shall be subject to arrest upon civil process, or be compelled to attend any court or judicial proceeding as suitor, juror or witness; or to work upon the public roads; or, except in time of war or public danger, to render military or naval service; nor shall any deduction from his wages or his salary be made by his employer on account of necessary time spent by him in attending at such election and in going to and returning therefrom.

SEC. 17. Every person who shall have given or offered a bribe, threat or reward to procure his election shall be disqualified from holding office during the term for which he shall have been elected.

## ARTICLE VI.

## ENUMERATION.

SECTION 1. The decennial census taken by the government of the United States, shall, unless otherwise provided by law, be adopted for all purposes as the enumeration of this state, but the general assembly shall, in case the census of the United States shall for any reason fail or be not published within a reasonable time after the taking of the same, or in case the general assembly shall for other reason deem it necessary, cause an enumeration of inhabitants of this state to be duly made.

## CHAP. II. Organizations.

## Title I.—Public Organizations.

## ARTICLE VII.

## THE MILITIA.

(1) *Militia Generally.*

SECTION 1. The militia of the state shall consist of all able-bodied male persons residing within the state, between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States or of this state. Persons whose religious tenets or conscientious scruples forbid them to bear arms shall not be compelled to do so in times of peace, but shall pay an equivalent for personal service.

(2.) *Active Militia.*

SEC. 2. The militia shall be enrolled, organized, uniformed, armed and disciplined in such manner as shall be provided by law, not incompatible with the Constitution or laws of the United States.

SEC. 3. The general assembly shall provide by law for the establishment of volunteer organizations of the several arms of the service, which shall be classed as active militia.

SEC. 4. All militia officers, except the adjutant general shall be appointed or elected in such manner as the general assembly shall prescribe.

SEC. 5. The commissioned officers of the militia shall be commissioned by the governor; and no commissioned officer shall be removed from office except by sentence of court-martial, pursuant to law.

SEC. 6. The militia forces shall, in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at musters, parades and election of officers, and in going to and returning from the same.

## ARTICLE VIII.

## SCHOOLS.

*(1.) Schools Generally.*

SECTION 1. The general assembly shall establish and maintain throughout the state a uniform system of free public schools.

SEC. 2. The public school system shall include primary and grammar schools, and such high schools, normal schools and technical schools as may be established by the general assembly or any district or municipal authority. The entire revenue derived from the state school fund shall be applied exclusively to the support of primary and grammar schools.

SEC. 3. In each school district one or more free public schools shall be maintained at least four months in every year.

SEC. 4. The public schools of the state shall be open to all children and youth between the ages of five and twenty-one years.

SEC. 5. In the public schools both sexes shall have equal rights and privileges. No distinction or classification of pupils shall ever be made on account of race or color.

SEC. 6. Every child of sufficient mental and physical ability may be required to attend the public schools between the ages of six and eighteen years, for a term of not less than three years, unless educated by other means.

SEC. 7. Neither the state, nor any county, township, school district, city, town or other municipality shall ever make any appropriation, or pay anything from any public fund or public moneys, or make any grant or donation of land, money or other property in aid of any school, seminary or other institution of learning, controlled wholly or in part by any church or sect. And any gift, devise or bequest to the state, or to any county, township, school district, city, town or other municipality, of lands, money or other property, to be used in support of any sectarian school or other sectarian institution of learning, shall be inoperative and void.

SEC. 8. No religious test or qualification shall ever be required of any person as a condition of admission into any public educational institution of the state, either as a teacher or student, and no sectarian doctrines shall ever be taught therein.

*(2.) Supervision of Schools.*

SEC. 9. The general supervision of the public schools of the state shall be vested in a board of education, the powers and duties of which shall be prescribed by law. The

superintendent of public instruction, the governor, and secretary of state and attorney-general shall constitute the board, of which the superintendent of public instruction shall be president.

SEC. 10. The first session of the board of education shall be held at the capital of the state within thirty days after the organization of the state government under this constitution.

SEC. 11. The superintendent of public instruction and one other shall constitute a quorum.

SEC. 12. In each county the county superintendent of schools shall exercise supervision over the public schools of the county and perform such other duties as may be prescribed by law.

(3.) *School Funds and School Lands.*

SEC. 13. The public school fund of the state shall consist of the proceeds of such lands as have heretofore been granted, or may hereafter be granted to the state by the United States government, known as school lands, and those granted in lieu thereof; lands acquired by gift or grant from any person or corporation under any law or grant of the United States government; and of all other grants of land or money made to the state from the United States government for general educational purposes, or where no other special purpose is indicated in the grant; all estates or shares of estates that may escheat to the state; all unclaimed shares and dividends of any corporation incorporated under the laws of the state, and all grants, gifts, devises and bequests made to the state for general educational purposes.

SEC. 14. The school fund shall be deemed a trust fund held by the state. The principal thereof shall forever remain inviolate. It may be increased but shall never be diminished, and the state shall make good all losses of any portion of the principal which may in any manner occur.

SEC. 15. The financial agents to receive the income of the school fund, and to look after the safety of the principal under such regulations as may be provided by law, shall, except as otherwise provided in this constitution, be the same officers who by law receive and control the revenues of the state and of the respective counties for other civil purposes.

SEC. 16. The school lands may be sold under such regulations, at such times and on such terms as may be prescribed by law.

SEC. 17. The moneys of the school fund, whether arising from the sale of lands or otherwise, shall be invested only in bonds of the United States, or of the State of North Dakota, or in first Mortgages on real estate situated within the State of North Dakota and worth in every case at least twice the amount for which it is mortgaged, or in bonds of school districts issued to raise money for the building of school houses. All moneys designated for in-

vestment in school district bonds shall be divided among the organized counties of the state as nearly as possible in proportion to their population of children between the ages of five and twenty-one years.

SEC. 18. The net annual income of the school fund shall be divided annually among the organized counties of the state as nearly as possible in proportion to their population of children between the ages of five and twenty-one years, to be disbursed in the support of free public schools or schools of the grade of primary or grammar schools in each school district. But no school district in which a free public school has not been maintained at least four months during the year for which distribution is made, shall be entitled to receive any portion of such income.

SEC. 19. All fines, penalties and license moneys arising under the general laws of the state shall belong and be paid over to the counties respectively where they were levied or imposed; and all fines, penalties and license moneys arising under the laws or ordinances of cities, towns or other municipalities, shall belong and be paid over to the municipalities respectively where they were levied or imposed.

#### (4.) *Taxes for School Purposes.*

SEC. 20. In case the income of the school fund shall be insufficient to sustain a free public school at least four months in every year in each school district in the state, the general assembly shall provide for supplying the deficiency from the general revenue of the state.

SEC. 21. The general assembly may provide for the levy and collection of an annual poll tax of not more than \$1.50 on each poll, which shall be applied to the support of the public schools in the counties in which it is levied and collected.

SEC. 22. Each county shall be required to raise annually by tax, for the support of free public schools therein, a sum not less than one-half of the amount apportioned to it for that year from the income of the school fund.

SEC. 23. The general assembly may by general law authorize school districts, by a vote of the qualified electors residing therein, to levy for school purposes a tax of not more than five mills on the dollar of assessed valuation in any one year.

### Title II—Private Organizations.

#### ARTICLE IX.

##### CORPORATIONS.

SECTION 1. No charter of incorporation shall be granted, changed or amended by special law, except in the case of such municipal, charitable, educational, penal or reformatory corpora-

tions as may be under the control of the state; but the general assembly shall provide by general laws for the organizations of all corporations hereafter to be created, and any such law so passed shall be subject to future repeal or alteration.

SEC. 2 All existing charters or grants of special or exclusive privileges under which there shall not have been a bona fide organization and beginning of business at the time this constitution takes effect, shall thereafter be invalid.

SEC. 3. The general assembly shall have the power to alter, revoke or annul any charter of incorporation existing and revokable at the time of the taking effect of this constitution or any that may thereafter be created, whenever in its opinion it may be injurious to the citizens of the state, in such manner however that no injustice shall be done to the incorporators or creditors.

SEC. 4. In all elections for directors or managers of a corporation each member or shareholder in person or by proxy may cast the whole number of his votes for one candidate or distribute them upon two or more candidates as he may prefer.

SEC. 5. No foreign corporation shall engage in business in this state, without having one or more known places of business, and an authorized agent or agents in the same upon whom process may be served.

SEC. 6. No corporation shall engage in any business other than that expressly authorized in its charter and the law.

SEC. 7. No corporation shall issue stock or bonds except for services performed or money and property actually received. The stock and bonded debt of corporations shall not be increased except in pursuance of a general law, nor without obtaining the consent of the persons holding the larger amount in value of the stock at a meeting to be held after thirty days' notice given in pursuance of law.

SEC. 8. The indebtedness of private corporations shall be secured by such means as may be prescribed by law, but in no case shall any stockholder be made by law individually liable for such indebtedness in any amount over or above the amount of stock owned by him.

SEC. 9. No corporation except for municipal, charitable, educational, penal or reformatory purposes and under the control of the state, or for the construction or operation of railroads, plank roads and canals, shall be created for a longer time than thirty years.

SEC. 10. All railroads and canals shall be public highways, and all railroads, canals, transportation and express companies shall be common carriers and subject to legislative control, and the general assembly shall have power to regulate and control by law the rates of charges for the transportation of passengers and

freight by such companies as common carriers from one point to another in the state; *provided*, however, that such common carriers shall be entitled to charge and receive just and reasonable compensation for such transportation of freight and passengers within the state; and the determination of what is a just and reasonable compensation shall be a judicial question to be determined by the courts.

SEC. 11. If any railroad, telegraph, express or other corporation organized under the laws of this state shall consolidate by sale or otherwise with any railroad, telegraph, express or other corporation organized under the laws of any other country, state or territory, or of the United States, it shall not thereby become a foreign corporation, but the courts of this state shall retain jurisdiction over that part of the corporate property within the limits of the state as if said consolidation had not taken place.

SEC. 12. No railroad corporation, express or other transportation company, or the lessees or managers thereof, shall consolidate its stock, property or franchises with any other railroad corporation, express or other transportation company owning or having under its control a parallel or competing line. And in no case shall any consolidation take place except upon public notice given at least sixty days to all stockholders, in such manner as may be provided by law.

SEC. 13. No street or other railroad shall be constructed within any city, town or other municipality or incorporated village without the consent of the local authorities having the control of the street or highway proposed to be occupied by such street or other railroad.

SEC. 14. Every railroad, telegraph, express or other corporation organized or doing business in this state, shall make an annual report to the auditor; and the general assembly shall pass laws to enforce the faithful and full performance of this duty, to the end that all the doings of such corporations may be publicly known.

SEC. 15. The term "corporation," as used in this article, shall not be understood as embracing municipalities or political divisions of the state unless otherwise expressly stated; but it shall be held and construed to include all associations and joint stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships.

SEC. 16. All corporations shall have the right to sue, and shall be subject to be sued in all courts in like cases as natural persons, subject to such regulations and conditions as may be prescribed by law.

**Part III.—The Government.****CHAP I.—State Government.****Title I.—Frame of State Government.****ARTICLE X.****DISTRIBUTION OF POWERS OF GOVERNMENT.**

**SECTION 1.** The powers of the government of this state shall be divided into three distinct departments, the legislative, the executive and the judicial, each of which shall be confided to a separate magistracy.

**ARTICLE XI.****THE LEGISLATURE.***(1.) Division of the Legislature.*

**SECTION 1.** The legislative power shall be vested in a senate and house of representatives.

*(2.) Senate.*

**SEC. 2.** The senate shall be composed of not less than one-third, nor more than one-half of the number of representatives.

**SEC. 3.** Senators shall be elected for the term of four years, except as hereinafter provided.

**SEC. 4.** No person shall be a senator who is not a qualified elector in the district in which he may be chosen, and who shall not have attained the age of twenty-five years, and have been a resident of the state or territory for two years next preceding his election.

**SEC. 5.** At its first session after the adoption of this constitution, the general assembly shall fix the number of senators and divide the state into as many senatorial districts as there are senators, which districts, as nearly as may be, shall be equal to each other in the number of inhabitants entitled to representation. Each district shall be entitled to one senator and no more, and shall be composed of compact and contiguous territory; and no county shall be divided between two districts. The districts as thus ascertained and determined shall continue until changed by law.

**SEC. 6.** The senatorial districts shall be numbered consecutively from one upwards, according to the number of districts prescribed, and the senators shall be divided into two classes. Those elected in the districts designated by even numbers shall constitute one class, and those elected in districts designated by odd numbers shall constitute the other class. The senators of one class shall hold their offices for two years, those of the other class



shall hold their offices for four years, and the determination of the two classes shall be by lot, so that one-half the senators, as nearly as practicable, may be elected biennially.

SEC. 7. The senate, at the beginning and close of each regular session and at such other times as may be necessary, shall elect one of its members president *pro tempore*, who may take the place of the lieutenant-governor under rules prescribed by law. .

(3.) *House of Representatives.*

SEC. 8. The house of representatives shall be composed of not less than seventy-five nor more than one hundred and twenty members.

SEC. 9. Representatives shall be elected for the term of two years.

SEC. 10. No person shall be a representative who is not a qualified elector in the district for which he may be chosen, and who shall not have attained the age of twenty-one years and have been a resident of the state or territory for two years next preceding his election.

SEC. 11. At its first session after the adoption of this constitution the general assembly shall apportion the state as nearly as possible into representative districts composed of compact and contiguous territory according to the population, giving, however, one representative to each organized county.

SEC. 12. The house of representatives shall elect one of its members as speaker.

(4.) *Members of Both Houses.*

SEC. 13. No judge or clerk of any court, secretary of state, attorney general, recorder, sheriff or person holding any office of profit under this state, except offices in the militia, or the office of attorney at law, notary public or justice of the peace, and no person holding any office of honor or profit under any foreign government, or under the government of the United States, except postmasters whose annual compensation does not exceed the sum of three hundred dollars, shall hold any office in either branch of the general assembly or become a member thereof.

SEC. 14. No member of the general assembly expelled for corruption, and no person convicted of bribery, perjury or other infamous crime shall be eligible to the general assembly or to any office in either branch thereof.

SEC. 15. No member of the general assembly shall during the term for which he was elected be appointed or elected to any civil office in the state which shall have been created or the emoluments of which shall have been increased, during the term for which he was elected; nor shall any member receive any civil

appointment from the governor, or governor and senate, or from the general assembly, during the term for which he shall have been elected.

**SEC. 16.** If any person elected to either house of the general assembly shall offer or promise to give his vote or influence in favor of or against any measure or proposition pending or proposed to be introduced into the general assembly, in consideration or upon condition that any other person elected to the same general assembly will give, or will promise or assent to give, his vote or influence in favor of or against any other measure or proposition pending or proposed to be introduced into such general assembly, the person making such offer or promise shall be deemed guilty of solicitation of bribery. If any member of the general assembly shall give his vote or influence for or against any measure or proposition pending or proposed to be introduced into such general assembly, or offer, promise or assent so to do upon condition that any other member will give, or will promise or will assent to give, his vote or influence in favor of or against any other measure or proposition pending or proposed to be introduced into such general assembly, or in consideration that any other member hath given his vote or influence for or against any other measure or proposition in such general assembly, he shall be deemed guilty of bribery, and any member of the general assembly, or person elected thereto, who shall be guilty of either of such offenses, shall be expelled, and shall not thereafter be eligible to the general assembly; and, on the conviction thereof in the civil courts, shall be liable to such further penalty as may be prescribed by law.

**SEC. 17.** The term of service of the members of the general assembly shall begin on the first Tuesday in January next after their election.

**SEC. 18.** The members of the general assembly shall in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to or returning from the same. For words used in any speech or debate in either house, they shall not be questioned in any other place.

**SEC. 19.** A member who has a personal or private interest in any measure or bill proposed or pending before the general assembly, shall disclose the fact to the house of which he is a member, and shall not vote thereon without the consent of the house.

**SEC. 20.** The governor shall issue writs of election to fill such vacancies as may occur in either house of the general assembly.

**SEC. 21.** Each member of the general assembly shall receive as a compensation for his services — dollars for each day's

attendance during the session of the general assembly, and — cents for every mile of necessary travel in going to or returning from the place of meeting of the general assembly on the most usual route, and shall receive no other compensation, perquisite or allowance whatsoever.

(5.) *Each House Separately.*

SEC. 12. A majority of the members of each house shall constitute a quorum, but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such a manner and under such a penalty as may be prescribed by law.

SEC. 23. Each house shall be the judge of the election returns and qualifications of its own members.

SEC. 24. Each house shall have power to determine the rules of proceeding and punish its members or other persons for contempt or disorderly behavior in its presence; to protect its members against violence or offers of bribes or private solicitation, and with the concurrence of two-thirds to expel a member, and shall have all other powers necessary and usual in the general assembly of a free state. But no imprisonment by either house shall continue beyond thirty days. Punishment for contempt or disorderly behavior shall not bar a criminal prosecution for the same offense.

SEC. 25. Each house shall keep a journal of its proceedings, and the yeas and nays of any question shall be taken and entered on the journal at the request of one-sixth of those present.

SEC. 26. The sessions of each house and of the committee of the whole shall be open, unless the business is such as ought to be kept secret.

SEC. 27. Neither house shall, without the consent of the other, adjourn for more than three days, or to any other place than that in which the two houses shall be sitting, except in case of epidemic, pestilence or other great danger.

(6.) *Both Houses.*

SEC. 28. The senate and house of representatives jointly shall be designated as the general assembly of the state of North Dakota.

SEC. 29. The general assembly shall meet at the seat of government at 12 o'clock on the first Tuesday after the first Monday of January, in the year next following the election of members thereof.

SEC. 30. In all elections to be made by the general assembly, or either house thereof, the members shall vote *viva voce*, and their votes shall be entered in the journal.

SEC. 31. The sessions of the general assembly shall be biennial, except as otherwise provided in this constitution.

SEC. 32. No regular sessions of the general assembly shall exceed ninety days, except in case of impeachment.

(7.) *Passage of Laws.*

SEC. 33. Any bill may originate in either house of the general assembly, and a bill passed by one house may be amended by the other.

SEC. 34. No law shall be passed, except by a bill adopted by both houses, and no bill shall be so altered or amended on its passage through either house as to change its original purpose.

SEC. 35. The enacting clause of every law shall be as follows: Be it enacted by the general assembly of the State of North Dakota:

SEC. 36. No bill for the appropriation of money, except for the expenses of the government, shall be introduced after the twenty-fifth day of the session, except by unanimous consent of the house in which it is sought to be introduced.

SEC. 37. No bill shall embrace more than one subject, which shall be expressed in its title; but a bill which violates this provision shall be invalidated thereby only as to so much thereof as shall not be so expressed.

SEC. 38. The general appropriation bill shall embrace nothing but appropriations for the expenses of the executive, legislative and judicial departments of the state, interest on the public debt, and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.

SEC. 39. Every bill shall be read three several times, but the first and second readings, and these only, may be upon the same day, and the second reading may be by title of the bill, unless a reading at length be demanded. The first and third readings shall be at length. No legislative day shall be shorter than the natural day.

SEC. 40. No bill shall be considered or become a law unless referred to a committee, returned therefrom and printed for the use of the members.

SEC. 41. No bill shall be revised or amended or the provisions thereof extended or incorporated in any other bill by reference to its title only, but so much thereof as is revised, amended, extended or so incorporated shall be re-enacted and published at length.

SEC. 42. No bill shall become a law except by a vote of a majority of all the members present in each house, nor unless on its

final passage the vote be taken by yeas and nays and the names of those voting be entered on the journal.

SEC. 43. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the general assembly; immediately before such signing their titles shall be publicly read; and the fact of signing shall be at once entered upon the journal.

SEC. 44. No act of the general assembly shall take effect until sixty days after the close of the session, unless in case of emergency (which shall be expressed in the preamble or body of the act), the general assembly shall by a vote of two-thirds of all the members present in each house otherwise direct.

SEC. 45. The general assembly shall pass all laws necessary to carry into effect the provisions of this constitution.

(8.) *Special Limitations.*

Sec. 46. The general assembly shall not pass local or special laws in any of the following enumerated cases, that is to say:

- For granting divorces.
- Laying out, opening, altering or working roads or highways, vacating roads, town plats, streets, alleys, or public grounds.
- Locating or changing county seats.
- Regulating county or township affairs.
- Regulating the practice of courts of justice.
- Regulating the jurisdiction and duties of justices of the peace, police magistrates or constables.
- Changing the rules of evidence in any trial or inquiry.
- Providing for changes of venue in civil or criminal cases.
- Declaring any person of age.
- For limitation of civil actions, or giving effect to informal or invalid deeds.
- Summoning or impaneling grand or petit juries.
- Providing for the management of common schools.
- Regulating the rate of interest on money.
- The opening or conducting of any election or designating the place of voting.
- The sale or mortgage of real estate belonging to minors or others under disability.
- Chartering or licensing ferries or toll bridges or toll roads.
- Remitting fines, penalties or forfeitures.
- Creating, increasing or decreasing fees, percentage or allowances of public officers.
- Changing the law of descent.
- Granting to any corporation, association or individual the right to lay down railroad tracts, or any special or exclusive privilege, immunity or franchise whatever.
- For the punishment of crimes.
- Changing the names of persons or places.

For the assessment or collection of taxes.

Affecting estates of deceased persons, minors or other under legal disabilities.

Extending the time for the collection of taxes.

Refunding money paid into the state treasury.

Relinquishing or extinguishing in whole or in part the indebtedness, liability or obligation of any corporation or person to this state, or to any municipal corporation therein.

Legalizing, except as against the state, the unauthorized or invalid act of any officer.

Exempting property from taxation.

Restoring to citizenship persons convicted of infamous crimes.

Authorizing the creation, extension, or impairing of liens.

Creating offices, or prescribing the powers and duties of officers in counties, cities, townships, election or school districts, or authorizing the adoption or legitimation of children.

In all other cases, where a general law can be made applicable, no special law shall be enacted.

SEC. 47. No appropriation shall be made for [charitable, industrial, education or benevolent purposes, or for the benefit of any person, corporation or community not under the absolute control of the state, nor shall any appropriation be made or taxation authorized for the benefit of any denominational or sectarian school, institution or association.

SEC. 48. The general assembly shall not delegate to any special commission, private corporation, or association any power to make, supervise, or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes or perform any municipal functions whatever.

SEC. 49. 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.

## ARTICLE XII.

### THE EXECUTIVE.

#### (1.) *The Governor—Qualifications, Election and Term.*

Section 1. The chief executive power of this state shall be vested in a governor.

SEC. 2. The governor shall be at least thirty years of age at the time of his election; shall be a citizen of the United States, a qualified elector of this state, and shall have resided for at least two years next preceding his election within this state or the territory.

SEC. 3. The governor shall be chosen by the qualified electors of the state at the time and place of choosing members of the house of representatives.

SEC. 4. The returns of every election for governor shall (until otherwise provided by law) be sealed and sent by the returning officers to the seat of government, directed to the speaker of the house of representatives, who shall at the session of the general assembly next after the election, immediately upon the organization of the house, and before proceeding to other business, open and publish the same in the presence of both houses of the general assembly in joint convention.

SEC. 5. The person having the highest number of votes for governor shall be declared elected, but if two or more have an equal number of votes, and not less than the highest, the two houses of the general assembly at their next session shall forthwith, by joint vote, choose one of such persons for governor.

SEC. 6. Contested elections for governor shall be determined by both houses of the general assembly on joint ballot in such manner as shall be prescribed by law.

SEC. 7. The governor shall hold his office for two years, beginning on the first Tuesday in January next after his election, and until his successor is qualified.

SEC. 8. No person shall be elected governor for more than four years in any period of six years.

SEC. 9. The governor shall not hold any other office, civil or military, under this state, or the United States, or under any other power, during his term of service.

#### *His Powers.*

SEC. 10. The governor shall be commander-in-chief of the military and naval forces of the state, and shall have power to call out the same to execute the laws of the state, to suppress insurrections and repel invasion.

SEC. 11. The governor shall have power to remit fines and forfeitures, and to grant commutations of sentence, and pardons, except in cases of treason and impeachment; but no fine and no forfeiture shall be remitted, no pardon shall be granted, and no sentence commuted, except upon the recommendation in writing of a board of pardons composed of the lieutenant-governor, secretary of state and attorney-general, or of any two of the members of said board, after full hearing, upon due public notice, and in open session; and such recommendation, with the reasons therefor at length, shall be recorded and filed in the office of the secretary of state. The general assembly shall by law prescribe the sessions of said board of pardons and the manner in which application shall be made, and regulate the proceedings thereon; the written proceedings and decisions of said board and all papers used at any hearing shall be filed in the office of the secretary of state; the board of pardons may grant commutations and pardons either absolutely or upon such conditions as said board may deem proper.

SEC. 12. The governor shall have power to grant respites or reprieves for any time not exceeding ninety days, in all cases, except treason or conviction on impeachment, but such respite or reprieve shall not (in any case) extend beyond the end of the next session of the board of pardons.

SEC. 13. The governor may, upon a conviction of treason, suspend the execution of the sentence and report the same to the general assembly at its next session, when the general assembly may either pardon or commute the sentence, or grant a further reprieve.

SEC. 14. The governor shall nominate, and by and with the consent of a majority of the senators elected, appoint all officers whose offices are established by this constitution, or which may be created by law, and whose appointment, is not otherwise herein or by law provided for. In deliberating upon executive nominations the senate may sit with closed doors, but in acting thereupon it shall sit with open doors, and the vote shall be taken by ayes and noes to be entered upon the journal. No person after being rejected by the senate shall be again nominated for the same office at the same session unless at the request of the senate.

SEC. 15. The governor shall have power to remove for incompetency, neglect of duty, or malfeasance in office, any officer whom he may appoint, and who is not liable to impeachment, and he may declare the office vacant, and fill the same as herein provided in other cases of vacancy.

SEC. 16. Every bill, order, resolution or vote in which the concurrence of both houses may be necessary, except on the question of adjournment, or relating solely to the mode of transacting business of the two houses, shall be presented to the governor. If he approve, he shall sign it, and thereupon it shall become a law, but if he do not approve, he shall return it with his objections to the house in which it originated, which shall enter the objections at large upon its journal and proceed to reconsider the bill. If then two-thirds of the members elected to the house vote to pass the same, it shall be sent together with the objections to the other house by which it shall likewise be reconsidered, and if approved by two-thirds of the members elected to that house, it shall become a law (notwithstanding the objections of the governor), but in all such cases the vote of each house shall be determined by ayes and noes, to be entered upon the journal. Any such bill, order, resolution or vote which shall not be returned by the governor within five days (Sundays excepted), after it shall have been presented to him, shall become a law in like manner as if he had signed it, unless the general assembly shall by their adjournment prevent its return, in which case it shall become a law at the expiration of ten days after it shall have been presented to him, unless he shall file the same with his objections in the office of the secretary of state, and give notice thereof by public proclamation within said ten days.



SEC. 17. Every bill making appropriations of money out of the treasury shall specify the objects and purposes for which the same are made, and shall appropriate the several amounts in distinct items (and sections.) If any such bill presented to the governor contains several and distinct items of appropriations of money, the governor shall have the power to object to one or more of such items while approving the other portion of the bill, and the part or parts approved shall become law. In such a case he shall append to the bill at the time of signing it, a statement of the items to which he objects (with his objections), and no item so objected to shall take effect. If the general assembly be in session, he shall (within five days) transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered; if upon reconsideration, one or more of such items shall be approved by two-thirds of the members elected to each house, such items shall become part of the law, notwithstanding the objections of the governor. All the provisions of this article in relation to bills not approved by the governor shall apply in cases in which he shall withhold his approval from any item or items (or section or sections) contained in a bill appropriating money.

SEC. 18. He shall have power upon extraordinary occasions to summon the general assembly by proclamation, stating therein the purpose for which it is convened, but the general assembly when so convened shall transact no legislative business except that for which it is especially convened, except by consent of two-thirds of the members elected to each house. The governor shall also have power to call the senate together to act upon executive business.

SEC. 19. He shall have the power at any time to require information in writing, under oath or otherwise, from any executive officer or from any officer or manager of a state institution upon any subject relating to the duties, condition, management and expenses of the office or institution of any such officer or manager.

#### *His Duties.*

SEC. 20. The governor shall reside at the seat of government.

SEC. 21. The governor shall at the beginning of each session, by written message, give information to the general assembly of the condition of the state, and shall recommend such measures as he shall deem expedient.

SEC. 22. He shall, at the beginning of each regular session, present to the general assembly estimates of the amount of money required to be raised by taxation for all purposes; account to the general assembly as may be prescribed by law for all moneys received and paid out by him from any funds belonging to the state with the vouchers therefor; report to the general assembly each case of remission of fine, reprieve, commutation or pardon grant-

ed by him, stating the name of the convict, the crime of which he is convicted, the sentence and its date, and the date of the remission, reprieve, commutation or pardon, with the reasons for granting the same, and transmit to the general assembly the several reports and official recommendations that he shall have received since the last session from all state officers, officers of state institutions, or other officers, who may be required to report to him.

SEC. 23. All commissions shall be in the name and by authority of the state of North Dakota, shall be sealed with the great seal, shall be signed by the governor and countersigned by the secretary of state.

SEC. 24. The governor shall take care that the laws be faithfully executed.

SEC. 25. The governor shall be liable to impeachment for corruption or gross misconduct in office, gross immorality, habitual drunkenness or any high crime or misdemeanor, in the manner herein provided.

#### *Vacancies.*

SEC. 26. In case of the death, conviction on impeachment, conviction of felony or infamous crime, failure to qualify, absence from the state, removal from office, resignation or other disability of the governor, the powers, duties and emoluments of the office for the residue of the term, or until the disability shall be removed, shall devolve upon the lieutenant-governor.

SEC. 27. In case of the death, resignation or any disability designated in section 26 of both the governor and lieutenant-governor, the president of the senate pro tempore shall act as governor until the vacancy be filled or the disability of either the governor or lieutenant-governor shall be removed; if the president of the senate for any of the causes mentioned in case of the governor shall become incapable of performing the duties of governor, such duties shall devolve upon the speaker of the house of representatives.

#### (2.) *Lieutenant-Governor.*

SEC. 28. There shall be a lieutenant-governor who shall be chosen by the qualified electors of the state at every election for governor, and in the same manner and for the same term.

SEC. 29. Returns of the election of lieutenant-governor shall be made and published in the same manner as provided in case of the governor; contested elections of lieutenant-governor shall be determined by both houses of the general assembly on joint ballot in the manner prescribed by law.

SEC. 30. The provisions of sections 2, 7, 8, 9 and 25, as to the qualifications for the office of the governor, his term of office, his inability to hold other offices, and impeachment, shall apply also to the lieutenant-governor.

SEC. 31. The lieutenant-governor shall, by virtue of his office, be president of the senate, but he shall have only a casting vote therein. He shall also preside over the joint assembly of both houses and shall have a casting vote therein.

SEC. 32. In case of the absence, death, resignation, failure to qualify, refusal to serve, conviction on impeachment, or other disability of the lieutenant-governor, or when he shall hold the office of governor, the president of the senate *pro tempore* shall perform the duties of the lieutenant-governor until the vacancy be filled, or the lieutenant-governor return, or his disability be removed.

(3.) *Secretary of State.*

SEC. 33. There shall be a secretary of state who shall be chosen by the qualified electors of the state at every election for governor, and in the same manner and for the same term.

SEC. 34. He shall possess the same qualifications for office as the governor, except that he need not be more than twenty-five years of age when elected.

SEC. 35. He shall have the custody of the seal of the state. The seal of the territory of Dakota, as now used, shall be the great seal of the state until otherwise provided by law.

[Describe the Seal.]

SEC. 36. The secretary of state shall keep a true record of the official acts of the governor, and he shall lay the same, together with all papers relating thereto, before either house of the general assembly whenever required so to do, unless the governor shall certify that in his opinion the public interest requires that they be withheld; and he shall authenticate all the publications of the law.

SEC. 37. He shall, by virtue of his office, be state librarian, and perform such other duties as may be prescribed for him in the constitution.

SEC. 38. The secretary of state shall, before he enters upon the business of his office, give bonds, with sufficient sureties, in a reasonable sum, to be provided by law, for the performance of his duties.

(4.) *State Auditor.*

SEC. 39. There shall be a state auditor, who shall be chosen by the qualified electors of the state, at every election for governor, and in the same manner and for the same term.

SEC. 40. He shall possess the same qualifications for office as the secretary of state.

SEC. 41. The state auditor shall prescribe the mode of keeping and rendering all public accounts, superintend the prompt col-

lection of all taxes and revenue, preserve all public accounts, and audit all claims against the state; draw warrants upon the public treasury in favor of the public creditors, and have the general superintendence of the fiscal affairs of the state.

(5.) *State Treasurer.*

SEC. 42. There shall be a state treasurer, who shall be chosen by the qualified electors of the state, at every election for governor, and in the same manner and for the same term.

SEC. 43. He shall possess the same qualifications for office, and shall give the same bond as the secretary of state.

SEC. 44. The treasurer shall receive all moneys, funds, bonds or other securities belonging to the state in such manner as may be provided by law, and disburse the public moneys only as may be directed by law. He shall pay no warrant or order for the disbursement of public moneys except upon the order of the state auditor, in such manner as shall be prescribed by law and perform such other duties as may be prescribed for him in the constitution, or by law.

(6.) *Attorney General.*

SEC. 45. There shall be an attorney-general, who shall be chosen by the qualified electors of the state, at every election for governor, and in the same manner, and for the same term.

SEC. 46. He shall possess the same qualifications for office as the secretary of state, and shall have been admitted to practice in the supreme court of this state or the territory.

SEC. 47. The attorney-general shall be the law officer of the state; he shall prosecute and defend on the part of the state, during his term of service, all cases brought by or against the state, or wherein the state is interested.

SEC. 48. He shall, whenever required, give legal advice in writing to either house of the general assembly on any matter pending before it, and to the governor and to any other officer, or board, of the executive department, on any matter connected with the business of the executive department.

SEC. 49. He shall, upon proper occasions, in behalf of the state, inquire into the charter rights of all private corporations and seek a judicial forfeiture of such charter, unless otherwise provided by law.

(7.) *Superintendent of Public Instruction.*

SEC. 50. There shall be a superintendent of public instruction, who shall be chosen by the qualified electors of the state at every election for governor, in the same manner and for the same term.

SEC. 51. He shall possess the same qualifications for office as the governor.

SEC. 52. He shall, under the direction of the board of education, have the supervision of all matters relating to the public schools and public instruction, and of all public buildings devoted to educational purposes except the state university; he shall be president of the board of education and perform such other duties as may be prescribed for him in the constitution.

(8.) *Commissioner of Public Lands.*

SEC. 53. There shall be a commissioner of public lands, who shall be chosen by the qualified electors of the state at every election for governor, and in the same manner and for the same term.

SEC. 54. He shall possess the same qualifications for office as the secretary of state.

SEC. 55. He shall have supervision of the land office of the state, at the seat of government, and be custodian of the land titles of the state.

SEC. 56. He shall organize at the seat of government a bureau of statistics of labor and industrial resources, and by virtue of his office shall be commissioner of the bureau. The general assembly shall provide for periodic reports by such commissioner upon the agricultural, mining, timber and other business interests of the state as may be prescribed by law, and shall further prescribe the duties of such commissioner.

(9.) *State Executive Boards.*

SEC. 57. The board of public lands and property shall be composed of the secretary of state, attorney-general, state treasurer and commissioner of public lands. Said board shall have supervision of all the buildings, grounds and lands of the state, except school lands and buildings for educational purposes, and except buildings the supervision of which is otherwise in this constitution provided for; and the members of said board shall perform such other duties and be subject to such other regulations as may be prescribed by law.

SEC. 58. The board of school lands and funds shall be composed of the secretary of state, state treasurer, attorney-general and superintendent of public instruction and commissioner of public lands. Said board shall, under the direction of the general assembly, have power to lease and sell the lands, and shall manage the funds, set apart for educational purposes, except for the state university.

SEC. 59. The board of claims shall be composed of the attorney-general, state auditor and state treasurer. Such board shall have power to examine all claims against the state, except claims for salaries, compensation and fees of officers fixed by law, and shall perform such other duties connected with said claims as may

be prescribed by law. No claim against the state, except for salaries and the compensation and fees of officers fixed by law, shall be passed upon by the general assembly without first having been considered and acted upon by said board.

SEC. 60. The board of health shall be composed of the attorney-general and of two skilled physicians appointed by the governor with the consent of the senate, each, for a term of four years. They shall have the supervision, under direction of the general assembly, of the quarantine of the state, and of all matters affecting the public health; and shall recommend to the general assembly such public sanitary measures as they shall deem expedient, and shall perform such other duties relating to the public health as the general assembly may prescribe. County boards of health shall be established which shall be subject to the supervision of the state board to such an extent as the general assembly may prescribe.

SEC. 61. The general assembly may provide that such officers of the executive department mentioned in this article as they may designate, excepting such members of the board of health, as are appointed by the governor, shall perform the duties of commissioners of the sinking fund and of a board of public works, subject to such rules and regulations as shall be prescribed. The executive officers hereafter designated in the constitution shall compose the boards of education and of equalization of taxes.

SEC. 62. The coal lands belonging to the state shall never be sold, but the general assembly may, by general laws, provide for leasing the same. The words "coal lands" shall include lands bearing lignite coal.

#### (10.) *Adjutant-General.*

SEC. 63. There shall be an adjutant-general, who shall be appointed by the governor.

SEC. 64. He shall hold his office for two years, and until his successor is qualified, except as herein provided.

SEC. 65. He shall, unless absent under orders on duty, discharge the duties of his office at the seat of government.

SEC. 66. He shall be responsible for the safe-keeping of the military records, relics and banners of the state, and perform such other duties and receive such compensation as may be prescribed in the constitution and by law.

#### (11.) *General Provisions as to Executive Officers.*

SEC. 67. Returns of the election of each of the officers to be chosen by the qualified electors of the state pursuant to this article shall be made, published and declared in the same manner provided in case of the governor.

SEC. 68. Contested elections of each of said officers, except the governor and lieutenant-governor, shall be determined in the manner prescribed by law.

SEC. 69. All state executive officers named in this article, except the lieutenant-governor, shall reside at the seat of government, where they shall keep the books, records and papers pertaining to their respective offices. All state executive officers shall perform the duties required by them by the constitution, and by law.

SEC. 70. The state auditor and the state treasurer shall ever year, at a time the general assembly may fix, make a full and complete report to the governor, showing all receipts and disbursements of revenue, all claims audited and paid by the state by items, and all taxes collected and paid into the treasury, and from what sources, and they shall make reports oftener on any matter pertaining to their respective offices if required by the governor or by the general assembly.

SEC. 71. All officers of the executive department, except the governor and lieutenant-governor, and all state executive boards and all officers and managers of state institutions shall at least twenty days preceding each regular session of the general assembly make full and complete reports of their actions to the governor, who shall transmit the same to the general assembly.

SEC. 72. All officers of the executive department, and all state executive boards, and all officers and managers of public institutions of the state shall keep an account of all public moneys received by them severally from all sources and for every service, and all public moneys disbursed by them severally, and shall make a semi-annual report thereof to the governor and severally account for public money received and paid by them respectively, with the vouchers therefor, to the general assembly in the manner prescribed by law.

SEC. 73. The governor, and officers named in this article shall (until otherwise provided by law) receive, quarterly, compensation per annum, as follows:

The governor.....  
 The secretary of state.....  
 The attorney-general.....  
 The state auditor.....  
 The state treasurer.....  
 Commissioner of public lands.....  
 Superintendent of public instruction.....  
 Each member of the board of health appointed by  
 the governor.....  
 The lieutenant-governor shall receive twice the com-  
 pensation of a senator.

SEC. 74. No additional allowance, emolument, or perquisite shall be paid to either of the officers named in section 73, on any account, but the general assembly may provide for payment of mileage to any officer named in this article for necessary travel within the state, in the performance of his official duty. Such officers shall have such stenographic or other clerks as may be provided by law.

### ARTICLE XIII.

#### THE JUDICIARY.

##### (1.) *Distribution of Judicial Powers.*

SECTION 1. The judicial power of the state, except as in this constitution otherwise provided, shall be vested in a court for the trial of impeachments, a supreme court, district courts, county courts, justices of the peace and such courts as may be created by law for cities and incorporated towns.

##### (2.) *Court of Impeachment.*

SEC. 2. The house of representatives shall have the sole power of impeachment. The concurrence of a majority of the members elected shall be necessary to direct an impeachment.

SEC. 3. The governor and all civil state officers shall be liable to impeachment for gross misconduct in office, corruption in office, gross immorality, habitual drunkenness, or any high crime or misdemeanor.

SEC. 4. No person shall be tried on impeachment unless he shall have been served with an attested copy thereof at least twenty days previous to the day set for trial.

SEC. 5. All impeachments shall be tried by the senate, and, when sitting for that purpose, the senators shall take an oath or affirmation to do justice according to law and evidence. The chief justice shall preside unless he is impeached or otherwise disqualified, when the senate shall select a presiding officer.

SEC. 6. No person shall be convicted without the concurrence of two-thirds of the senators elected.

SEC. 7. Judgment shall not extend further than removal from office and disqualification to hold and enjoy any office of honor, profit or trust under this state; but the person impeached, whether convicted or acquitted, shall nevertheless be liable to prosecution and punishment according to law.

##### (3.) *Supreme Court.*

SEC. 8. The supreme court, except as otherwise provided in this constitution, shall have appellate jurisdiction only, which shall be co-extensive with the state. It shall have a general superintending control over all inferior courts, under such regulations and limitations as may be prescribed by law.



SEC. 9. The supreme court and the judges thereof shall have power to issue writs of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari*, injunction, prohibition and other original and remedial writs, with authority to hear and determine the same. And when a jury may be required by the supreme court to try an issue of fact, the court shall have power to summon a jury to try such question in that court.

SEC. 10. At least two terms of the supreme court shall be held each year at the seat of government.

SEC. 11. The supreme court shall consist of a chief justice, to be elected as such, and two associate justices, all of whom shall be elected by the qualified electors of the state at large.

SEC. 12. The number of said judges may, after five years from the admission of the state under this constitution, be increased by law to not exceeding five.

SEC. 13. A majority of the judges of the supreme court shall be necessary to form a quorum or to pronounce a decision, but one or more of said judges may adjourn the court.

SEC. 14. Each judge of the supreme court shall be, at the time of his election, at least thirty years of age; he shall have resided in this state or the territory for two years next preceding his election, and shall be a member of the bar in this state or the territory of at least five years' standing.

SEC. 15. The term of office of judges of the supreme court, except as otherwise provided by the constitution, shall be six years.

SEC. 16. The judges of the supreme court shall, immediately after the first election under this constitution, be classified by lot, so that one shall hold office for two years, one for four years and one for six years. And thereafter one-third, as nearly as may be, shall be elected every second year. The lot shall be drawn by the judges at the seat of government, and they shall cause the result thereof to be certified to the secretary of state, who shall file the same in his office.

SEC. 17. There shall be a clerk of the supreme court elected by the qualified electors of the state, who shall hold office for four years, subject to removal by the court. His compensation shall be fixed by law, and his duties shall be prescribed by law and by the rules of the supreme court.

SEC. 18. The supreme court shall appoint one reporter of its decisions, who shall hold office for four years, subject to removal by the court. His compensation shall be fixed by law, and his duties shall be prescribed by law and by the rules of the supreme court.

SEC. 19. The general assembly shall make provision for the publication and distribution of the decisions of the supreme court, and for the sale of the published volumes thereof. No

private person or corporation shall be allowed to secure any copy-right in such decisions, and if any copyrights are secured they shall enure wholly to the benefit of the state.

SEC. 20. When a judgement or decree is reversed or affirmed by the supreme court, every point fairly arising upon the record of the case shall be considered and decided, and the reasons therefor shall be concisely stated in writing, signed by the judges concurring, filled in the office of the clerk of the supreme court and preserved with a record of the case. Any judge dissenting therefrom may give the reasons of his dissent in writing over his signature.

SEC. 21. It shall be the duty of the court to prepare a syllabus of the points adjudicated in each case which shall be concurred in by a majority of the judges thereof, and it shall be prefixed to the published report of the case.

SEC. 22. The supreme court shall have power to make rules for the government of said court and the other courts of the state, rules of practice and rules for admission to the bar of the courts of the state.

SEC. 23. Except as otherwise provided in this constitution, no duties other than those prescribed herein shall be imposed by law upon the supreme court or any of the judges thereof, and none of the judges shall exercise any power of appointment.

SEC. 24. No judge of the supreme court (or of any court of record) shall sit in review of a decision made by him, or in any case wherein he may be interested, or where either of the parties may be connected with him by affinity or consanguinity within such degree as may be prescribed by law, or where he shall have been counsel in the case.

SEC. 25. Whenever all or a majority of the judges of the supreme court shall from any cause be disqualified from sitting in any case in said court, the governor shall, with the advice and consent of a majority of the senators elected, assign judges of the district court not disqualified in the manner aforesaid, who shall sit in such case in place of such disqualified judges, with all the powers and duties of judges of the supreme court.

SEC. 26. The judges of the supreme court shall give their opinion upon important questions of law and upon solemn occasions, when required by the governor, the senate or the house of representatives; and all such opinions shall be published in connection with the reported decisions of said court.

#### (4.) *District Courts.*

SEC. 27. The state shall be divided by the general assembly into convenient districts not to exceed six in number, unless the number be increased by a vote of two-thirds of the members elected to each house of the general assembly.

SEC. 28. The district courts shall have original jurisdiction in all civil cases, both at law and in equity; and in criminal cases, of all felonies and misdemeanors; and such appellate jurisdiction as may be conferred by law. Such jurisdiction as to value and amount and grade of offense may be limited by law.

SEC. 29. The district courts and judges thereof shall have power to issue writs of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari*, injunction, prohibition and other original and remedial writs, with authority to hear and determine the same.

SEC. 30. The process of the district courts shall extend to all parts of the state, but all action for the recovery of the possession of real property, quieting the title thereto, or enforcing liens thereon, shall be begun in the county in which the property or any part thereof affected by such action is situated.

SEC. 31. The time of holding courts within said judicial districts shall be as provided by law, but at least two terms of the district court shall be held annually in each county, except in such counties as may be attached for judicial purposes to another county wherein such courts are held. Special terms of said courts may be held under such regulations as may be prescribed by law. A judge of one district may hold the court in another district when convenience or the public interest may demand it.

SEC. 32. In each judicial district one judge of the district court shall be elected by the qualified electors thereof; his term of office shall be six years. Each judge of the district court shall be at the time of his election at least twenty-five years of age, shall have resided in this state or the territory for two years next preceding his election, and shall be a practicing lawyer of the supreme or district courts of this state or the territory of at least four years' standing.

SEC. 33. The judges of the district court shall, immediately after the first election under this constitution, be classified by lot, so that two shall hold office for two years, two for four years, and two for six years. And thereafter one-third as nearly as may be shall be elected every second year. The lot shall be drawn at the same time, and the result shall be certified and filed in the same way as is prescribed for judges of the supreme court.

SEC. 34. Writs of error and appeals may be allowed from the decisions of the said district courts to the supreme court under such regulations as may be prescribed by law.

SEC. 35. There shall be a clerk of the district court in each county wherein a term is held, who shall be elected by the qualified electors of his county at the same time and for the same term as herein provided for the judges of the district court. His duties and compensation shall be prescribed by law.

(5.) *County Courts.*

SEC. 36. County courts shall have original jurisdiction within their respective counties in all matters of probate and guardianship, and in the settlement of estates of deceased persons, and such other civil and criminal jurisdiction as may be conferred by law; but such courts shall not have jurisdiction in any case where the debt, damage, claim or value of property involved shall exceed \$500, except in matters of probate, guardianship and the estates of deceased persons. County courts shall have such jurisdiction in criminal matters not of the grade of felony as the general assembly may prescribe.

SEC. 37. There shall be elected in each organized county a judge of the county court of said county, whose term of office shall be two years. His qualifications for office shall be the same as those of a judge of a district court, except that he shall in addition be a resident of the county at the time of his election; his duties, except as prescribed in this constitution, may be determined by law. The general assembly may fix different salaries for the county judges in the several counties of the state.

SEC. 38. There shall be a clerk of the county court in each county who shall be elected by the qualified electors thereof. The duties of such clerk shall be prescribed by law.

SEC. 39. Appeals shall be allowed in all cases from county courts to district courts in such manner and under such regulations as may be prescribed by law.

SEC. 40. County courts shall always be open for the transaction of business, except on legal holidays and non-judicial days.

SEC. 41. Any case pending in the county court which the county judge may be disqualified to try, shall be transferred to the district court of the same county for trial.

(6.) *Justices of the Peace.*

SEC. 42. Justices of the peace shall have such jurisdiction as may be conferred by law in civil cases wherein the value of the property or the amount in controversy does not exceed the sum of \$100, and in criminal cases below the grade of felony.

SEC. 43. There shall be in each organized township or district of each county in the state at least two justices of the peace, who shall be elected by the qualified electors of the several townships or districts, and who shall hold office for two years.

SEC. 44. Appeals shall be allowed from county and justices' courts to the district courts in all cases, except as it may be otherwise provided by law, in such manner and under such regulations as may be prescribed by law.

(7.) *Municipal Courts.*

SEC. 45. The general assembly may provide such police and

municipal courts and magistrates for cities and towns, as may be deemed necessary from time to time, who shall have jurisdiction in all cases arising under the ordinances of such cities and towns respectively, and such police magistrates may also be constituted *ex-officio* justices of the peace for their respective counties.

(8.) *General Provisions.*

SEC. 46. The supreme, district and county courts shall be courts of record.

SEC. 47. All process shall run in the name of "The State of North Dakota," and all prosecutions shall be conducted in the name and by the authority of the same. All indictments shall conclude "against the peace and dignity of the state of North Dakota."

SEC. 48. There shall be but one form of civil action, and law and equity shall be administered in the same action.

SEC. 49. The power of the courts to punish for contempt shall be limited by acts of the general assembly.

SEC. 50. No judge of the supreme or district courts shall be elected to any other than a judicial office, or be eligible thereto, during the term for which he was elected such judge.

SEC. 51. No judge or clerk of any court of record shall, during his term of service, practice law in any of the courts of this state, or of the United States; and no judge shall give advice in regard to any case which may come before him.

SEC. 52. Until the general assembly shall provide by law for fixing the terms of the supreme, district and county courts, the judges of the supreme, district and county courts respectively shall fix the terms thereof.

SEC. 53. The general assembly shall provide for the election of all judicial officers at a time different from the election of other officers.

SEC. 54. Judicial officers shall receive such salaries and shall have such stenographic or other clerks as may be provided by law.

## ARTICLE XIV.

### PUBLIC OFFICERS GENERALLY.

(1.) *Qualifications for Office.*

SECTION 1. No person shall be elected or appointed to any office in this state, civil or military, who is not a citizen of the United States and does not possess the qualifications of an elector.

SEC. 2. No member of congress or person holding or exercising any office of profit or trust under the United States or either

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of them, or under any foreign power, shall hold or exercise any office of profit or trust under this state except as herein provided.

SEC. 3. No person holding or exercising any civil office of profit or trust under this state shall hold or exercise any other such office except that of attorney at law, justice of the peace, notary public or commissioner of deeds, unless otherwise specially provided herein.

SEC. 4. No religious test or property qualification shall be required for the holding of any office of profit or trust under this state.

SEC. 5. Making profit out of public moneys or using the same for any purpose not authorized by law by any officer of the state or member of the general assembly, shall be a misdemeanor, and shall be punished as may be provided by law; but part of such punishment shall be disqualification to hold any office of profit or trust in this state.

(2.) *Terms and Oaths of Office.*

SEC. 6. The terms of office of all state, county and judicial officers not elected or appointed to fill a vacancy, and of members of the general assembly shall (except as otherwise provided) begin on the first Tuesday of January next succeeding their election.

SEC. 7. No law shall extend or abridge the term of any public officer after his election or appointment.

SEC. 8. Every person holding any office, provided for in this constitution shall continue to hold such office until his successor is duly qualified, unless removed from office according to law.

SEC. 9. The general assembly, in cases not provided for in this constitution, shall prescribe by general laws the terms of office, powers, duties and compensation of all public officers and agents, and the manner in which they shall be elected, appointed and removed; but no person shall be eligible to the office of state treasurer, county treasurer or sheriff for more than two terms in succession.

SEC. 10. Members of the general assembly, and all other officers provided for in this constitution, before they enter upon their official duties, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the state of North Dakota and will faithfully discharge the duties of according to law and to the best of my ability."

(3.) *Removals and Vacancies.*

SEC. 11. All officers not liable to impeachment shall be subject to removal for neglect of duty, misconduct or malfeasance in office, in such manner as may be provided by law.

SEC. 12. All executive officers and judges of courts of record may be removed by the governor on the address of two-thirds of the members elected to each house of the general assembly, for wilful neglect of duty, incompetency, mental or physical inability, habitual drunkenness, oppression in office or any reasonable cause which shall not be sufficient ground for impeachment. The cause or causes for which such removal shall be required shall be stated at length in such address and entered on the journal of each house. The officer or judge against whom the general assembly may be about to proceed shall receive notice thereof accompanied by a copy of the causes alleged for his removal at least twenty days before the day on which either house shall act thereon, and he shall be admitted to a hearing in his own defense, before any vote for such address shall be taken, and in all cases the votes shall be taken by yeas and nays and entered in the journal of each house respectively.

SEC. 13. In all offices created by this constitution a permanent vacancy shall be deemed to exist by the death or resignation of the incumbent or officer elect, or his removal from office for cause, or removal from the state, failure to qualify or file the proper official bond, conviction on impeachment, or of a felony, or being lawfully adjudged of unsound mind.

SEC. 14. In case of a permanent vacancy during the recess of the senate, in any office elective by the people, it shall be the duty of the governor, except as herein otherwise provided, to fill the same by appointment, until the next general election. If the vacancy in such elective office shall occur during the session of the senate, such appointment shall be made by and with the consent of a majority of the senators elected. But in every such case of a vacancy in an elective office a person shall be chosen to said office at the next general election that occurs more than thirty days after the vacancy has taken place, and the person chosen shall hold office for the remainder of the unexpired term of the office so vacated.

SEC. 15. In case of a permanent vacancy during the recess of the senate, in any non-elective office, the governor shall fill such vacancy by making a temporary appointment, until a nominee to such office shall either be confirmed or rejected by the senate at its next session. If such appointment is made during the recess of the senate, the appointee or some other person to fill such vacancy shall be nominated to the senate during the first ten days of its next session; if rejected, the office shall immediately become vacant, and the governor shall, without delay, make further nominations until a confirmation takes place. The person so confirmed shall hold office for the remainder of the unexpired term of the office so vacated. No person after being rejected by the senate shall be again nominated for the same office at the same session unless at request of the senate.

(4) *Official Bribery.*

SEC. 16. Any person who shall, directly or indirectly, offer, give or promise any money or thing of value, testimonial, privilege or personal advantage to any executive or judicial officer or member of the general assembly, to influence him in the performance of any of his public or official duties, shall be guilty of bribery and be punished in such manner as shall be provided by law.

SEC. 17. Any member of the general assembly or executive or judicial officer who shall solicit, demand or receive or consent to receive, directly or indirectly, for himself or for another, from any company, corporation or person, any money, office, appointment, employment, testimonial, reward, thing of value or enjoyment, or of personal advantage, or promise thereof for his vote or official influence or official action, or for withholding the same, or with any understanding, expressed or implied, that his vote, official influence or official action shall be in any way influenced thereby, or who shall solicit or demand or receive any such money or other advantage, matter or thing aforesaid for another, as the consideration of his own vote or official influence or official action, or for withholding the same, or shall give or withhold, or promise to give or withhold his vote, official influence or action in consideration of the payment or promise of such money, advantage, matter or thing to another, shall be held guilty of bribery or solicitation of bribery as the case may be, within the meaning of this constitution, and shall incur the disabilities provided for such offense, with a forfeiture of the office he may hold, and such other additional punishment as is or shall be prescribed by law.

(5.) *Residence, Salaries and Fees.*

SEC. 18. The sureties upon the official bonds of all state officers shall be residents of the state, and shall have within the state sufficient property, not exempt from sale under execution, attachment or other process of any court, to make good their bonds; and the sureties upon the official bonds of all county officers shall reside within the counties where such officers reside, and shall have sufficient property therein, not exempt from such sale, to make good their bonds.

SEC. 19. All civil officers shall reside during their terms of office within the state, and all district, county, township, city or town officers within their districts, counties, townships, cities or towns; and they shall keep their offices at such places as may be required by the constitution or by law.

SEC. 20. No law shall increase or diminish the salary or emoluments of any public officer after his election or appointment, nor shall any extra compensation be given to any public officer, servant, employee agent or contractor, after his services shall have been rendered or his contract made.



SEC. 21. No officer of the state, executive or judicial, or of any county, city or town shall receive to his own use, for the performance of any official duties, any fees, costs, perquisites or compensation other than his salary as prescribed by law; and all fees payable by law for any official service shall be paid, when received by such officer, into the state, county, city or town treasury, respectively.

Title II.—State Government.

## ARTICLE XV.

### TAXATION AND REVENUE.

SECTION 1. The rate of taxation shall be uniform and taxes shall be levied upon such property as the general assembly shall prescribe.

SEC. 2. The general assembly shall not levy in any one year a greater rate of taxation than one per centum on the value of the taxable property within this state, except to repel invasion or suppress insurrection.

SEC. 3. Property belonging to persons residing without the limits of this state, shall never be taxed at a higher rate than similar property belonging to persons residing within the state.

SEC. 4. The general assembly shall have power to levy excise taxes upon particular articles and occupations, which shall be uniform as to the class of persons and property upon which they operate.

SEC. 5. The general assembly may also impose income taxes; but no income shall be taxed when the property from which the income is derived is taxed.

SEC. 6. The stock of any company or corporation shall not be taxed without making a proportionate deduction for any property of that company or corporation which has been taxed.

SEC. 7. The general assembly shall never levy a poll tax except for school purposes as in this constitution provided.

SEC. 8. Property, except as herein provided, shall be assessed in such manner as may be prescribed by law.

SEC. 9. There shall be a state board of equalization, consisting of the governor, secretary of state, state auditor, state treasurer and attorney general. The duty of the state board of equalization shall be to adjust and equalize the valuation of real and personal property among the several counties of the state. Such board shall also perform such other duties relating to taxation as may be prescribed by law.

SEC. 10. The general assembly shall have no power to release or discharge any county, township, district, city or town from their proportionate share of taxes levied for state purposes.

## ARTICLE XVI.

## APPROPRIATIONS AND EXPENDITURES.

SECTION 1. No money shall be drawn from the treasury of the state, except in pursuance of a specific appropriation made by law; and upon a warrant drawn by the proper officer; and no appropriation shall be for a longer term than one year.

SEC. 2. A regular statement and account of the receipts and expenditures of all public moneys shall be prepared and published annually in such manner as shall be provided by law.

SEC. 3. The treasurer shall keep a separate account of each fund in his hands, and shall at the end of each quarter of the fiscal year report to the governor in writing, under oath, the amount of all moneys in his hands to the credit of every such fund and the place or places where such moneys are kept or deposited, and the number and amount of every warrant paid or redeemed by him during the quarter. Swearing falsely to any such report shall be deemed perjury. The governor shall cause every such report to be immediately published in at least one newspaper printed at the seat of government, and otherwise as the general assembly may require.

SEC. 4. The general assembly may provide further regulations for the safe keeping and management of the public funds in the hands of the treasurer, but notwithstanding any such regulation the treasurer and his sureties shall in all cases be held responsible therefor.

SEC. 5. The state shall never assume or pay the debt or liability of any county, township, district, municipality, corporation or individual whatever, or any part thereof, unless such debt or liability shall have been created to repel invasion, suppress insurrection or to provide for the public defense.

SEC. 6. The state shall never become a subscriber to or shareholder in any corporation, company or association, except as such ownership may accrue to the state by escheat, forfeiture, bequest or otherwise by operation of law.

SEC. 7. The fiscal year shall begin on the first day of July of each year.

## ARTICLE XVII.

## STATE INDEBTEDNESS.

SECTION 1. For the purpose of defraying extraordinary expenses and making public improvements or to meet casual deficits of revenue the state may contract debts, never to exceed, with all previous debts and liabilities, in the aggregate hundred thousand dollars; and no greater indebtedness shall be incurred except for the purpose of repelling invasion, suppress insurrection, or defending the state or United States in war.

SEC. 2. To provide for the payment of any debt contracted by the state the general assembly shall establish and maintain a sinking fund sufficient to pay the accruing interest on such debt and to reduce annually the principal by a sum equal to one part thereof. And the sinking fund shall not be used or applied otherwise than in the extinguishment of the public debt.

SEC. 3. The state shall never lend or pledge its faith or credit, directly or indirectly, in any manner to, or in aid of, any person, company or corporation, public or private, for any amount or purpose whatever, or become responsible for any debt, contract or liability of any such person, company or corporation.

SEC. 4. In no case shall the general assembly have the power to issue treasury warrants, treasury notes or paper of any description intended to circulate as money.

## ARTICLE XVIII.

### PUBLIC WORKS.

SECTION 1. The general assembly may, if it is deemed necessary or proper, provide a well regulated system of irrigation for the purpose of developing the agricultural, mining and industrial resources of the state, and provide for the organization and prescribe the duties of a board of public works to take charge of and manage the same.

### CHAP. II.—Local Governments.

#### Title I—Frame of Local Governments.

## ARTICLE XIX.

### COUNTIES.

SECTION 1. The several counties of the territory of Dakota, as they shall exist at the time of its admission as a state into the Union, are hereby declared to be the counties of the state until otherwise established or changed by law.

SEC. 2. No territory shall be taken from or added to any organized county until a proposition for such change shall have been submitted to the electors of the county or counties from which it is proposed to take territory or to which it is proposed to add territory, and until the proposition shall have received in each a majority of the votes cast by qualified electors.

SEC. 3. No county now established shall be reduced to an area of less than                    hundred square miles, or to a population of less than                    thousand. And no new county shall be formed containing less than                    hundred square miles, and                    thousand inhabitants.

SEC. 4. New or unorganized counties may, for the purposes of administration, be temporarily annexed to such other county or counties as may be most convenient.

**SEC. 5.** Whenever territory is taken from any county or counties and attached to another, the county to which such territory is attached shall be liable to pay its ratable proportion of all the then existing liabilities of the county or counties from which such part is taken, less the same ratable proportion of the value of the county buildings and property of the county or counties from which such territory is taken.

**SEC. 6.** In any county where the county seat has not been fixed, the question of its place shall be submitted to the electors of the county at a general election. The place receiving the majority of all votes cast by qualified electors shall be the county seat. If no place receives a majority, the two places which have the greatest number of votes shall be submitted to the electors of the county, and the one of those places then receiving the greater number of votes shall be the county seat. But in the formation of new counties, the county seat may be fixed temporarily by the general assembly.

**SEC. 7.** No county seat shall be changed until a proposition designating the place to which the removal is proposed, shall have been submitted to the electors of the county and shall have received two-thirds of the votes cast by qualified electors. No person shall vote on such a proposition who shall not have resided in the county for six months, and in the election precinct for ninety days, next preceding the election. A proposition to change the location of the county seat shall not again be submitted for five years.

**SEC. 8.** The general assembly shall provide by general laws for such other county officers as may be deemed necessary, and shall prescribe their respective terms of office, duties and compensation.

## ARTICLE XX.

### TOWNSHIPS.

**SECTION 1.** Each county of the state shall be divided into townships of convenient number and size.

**SEC. 2.** The general assembly shall provide by general laws for such township officers as may be deemed necessary, and shall prescribe their respective terms of office, duties and compensation.

## ARTICLE XXI.

### SCHOOL DISTRICTS.

**SECTION 1.** Each county of the state shall be divided into a convenient number of school districts. But no school district shall be formed containing less than twenty-five inhabitants.

**SEC. 2.** In each school district there shall be elected annually one school trustee, who shall hold his office three years. But at

the first election three trustees shall be chosen, whose terms shall be one, two and three years respectively. Vacancies shall be filled by appointment by the board of county commissioners, and the appointee shall hold his office for the unexpired portion of the term.

## ARTICLE XXII.

### MUNICIPALITIES.

SECTION 1. The general assembly shall provide by general laws for the organization of cities and towns; and shall also make provision by general law whereby any city or other municipality incorporated by special or local law may elect to become subject to the general law relating to municipalities.

SEC. 2. The general assembly may vest the corporate authorities of cities, and other municipalities, with power to make local improvements by special assessment or special taxation of adjacent property or otherwise. For all other corporate purposes all municipal corporations may be vested with authority to assess and collect taxes, but such taxes shall be uniform.

## ARTICLE XXIII.

### LOCAL OFFICERS GENERALLY.

SECTION 1. The provisions of this article, so far as applicable, shall extend to county, township, school district, municipal and all other local officers as well as to state officers.

### Title II. Support of Local Government.

## ARTICLE XXIV.

### LOCAL TAXATION AND INDEBTEDNESS.

SECTION 1. Counties, townships, school districts and municipalities shall have power to levy taxes and borrow money to such an extent and in such manner as is provided in this constitution or may be allowed by general laws consistent therewith; but the general assembly shall limit the power by general law.

SEC. 2. No city, town or other municipality shall levy a greater rate of taxation in any one year on the value of the taxable property therein than [one] per centum.

SEC. 3. Every county, city and town which shall have a funded debt shall create a sinking fund inviolably pledged for the payment thereof.

SEC. 4. Private property shall not be taken or sold for the corporate debts of municipalities.

SEC. 5. There shall be in each county of the state a county board of equalization consisting of the board of county commis-

sioners. The duty of the county boards of equalization shall be to adjust and equalize the valuation of real and personal property within their respective counties. Each board shall also perform such other duties relating to taxation as may be prescribed by law.

**Part IV.—Alteration of the Constitution.**

## ARTICLE XXV.

### AMENDMENTS.

**SECTION 1.** Any amendment to this constitution may be proposed in either house of the general assembly, and if the same shall be voted for by two-thirds of all the members elected to each house, such proposed amendment, together with the yeas and nays of each house thereon, shall be entered in full on the respective journals; and the secretary of state shall cause the said amendment to be published in full in at least one newspaper in each county (if such there be), weekly for three months previous to the next general election for members to the general assembly; and if in the general assembly next afterwards chosen, such proposed amendment shall be agreed to by a majority of the members elected to each house, the secretary of state shall again cause the same to be published in the manner aforesaid, and at the next election aforesaid the said amendment shall be submitted to the qualified electors of the state for their approval or rejection, and if approved by a majority of the qualified electors of the state, shall become part of the constitution. Where more than one amendment is submitted at the same election, they shall be so submitted as to enable the electors to vote on each amendment separately.

## ARTICLE XXVI.

### REVISION.

**SECTION 1.** The general assembly may at any time by a vote of two-thirds of the members elected to each house recommend to the electors of the state to vote at the next general election for or against a convention to revise, alter and amend the constitution, and if a majority of the electors voting on the question shall vote for a convention, the general assembly shall at its next session provide for the calling thereof.

**SEC. 2.** The number of members of the convention shall be twice that of the senate, and they shall be elected as provided by law.

**SEC. 3.** The general assembly shall, in the act calling the convention, designate the day, hour and place of its meeting, fix the pay of its members and officers, and provide for the payment of the same, together with the necessary expenses of the convention.

**SEC. 4.** Before proceeding to business the members shall take

an oath to support the constitution of the United States and of the state of North Dakota, and to faithfully discharge their duties as members of the convention.

SEC. 5. The qualification of members shall be the same as of members of the senate; and vacancies occurring shall be filled in the manner provided for filling vacancies in the senate.

SEC. 6. Said convention shall meet within three months after such election, and prepare such revisions, alterations or amendments of the constitution as may be deemed necessary, which shall be submitted to the electors for their ratification or rejection at an election appointed by the convention for that purpose not less than two nor more than six months after the adjournment thereof; and unless so submitted and approved by a majority of the qualified electors of the state, no such revision, alteration or amendment shall take effect.

SEC. 7. This constitution may be amended and revised only in pursuance of the provisions of this article.

## ARTICLE XXVII.

### PUBLICATION AND INTERPRETATION.

SECTION 1. The general assembly shall provide for the editing, and for the publication in an independent volume, of this constitution as soon as it shall take effect, and whenever it shall be altered or amended, and shall cause to be published in the same volume the Declaration of Independence and the Constitution of the United States.

SEC. 2. The headings and marginal notes of this constitution shall not be binding in the interpretation or construction thereof.

### Part V.—Schedule.

SECTION 1. That no inconvenience may arise from a change of territorial government to state government, it is declared that all writs, actions, prosecutions, claims and rights of individuals and of bodies corporate shall continue as if no change of government had taken place, and all processes which may, before the organization of the judicial department under this constitution, be issued under the authority of the territory of Dakota shall be as valid as if issued in the name of the state.

SEC. 2. All laws now in force in the territory of Dakota, which are not repugnant to this constitution, shall remain in force until they expire by their own limitations or be altered or repealed.

SEC. 3. All fines, penalties, forfeitures and escheats accruing to the territory of Dakota shall accrue to the use of the state.

SEC. 4. All recognizances, bonds, obligations or other undertakings heretofore taken, or which may be taken before the organization of the judicial department under this constitution, shall remain valid, and shall pass over to, and may be prosecuted in the name of, the state; all bonds, obligations or other undertakings executed to this territory, or to any officer in his official capacity, shall pass over to the proper state authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly; all criminal prosecutions and penal actions which

have arisen, or may arise before the organization of the judicial department, under this constitution, or which shall then be pending, may be prosecuted to judgment and execution in the name of the state.

SEC. 5. All property, real and personal, and credits, claims and choses in action belonging to the territory of North Dakota at the time of the adoption of this constitution, shall be vested in and become the property of the state of North Dakota. And all outstanding obligations of the territory of North Dakota at the time of the adoption of this constitution, shall be assumed by the state.

SEC. 6. The territorial assembly shall pass all necessary preliminary laws to carry into effect the provisions of the constitution.

SEC. 7. Whenever any two of the judges of the supreme court of the state, elected under the provisions of this constitution, shall have qualified in their offices, the causes then pending in the supreme court of the territory, and the papers, records and proceedings of said court and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the supreme court of the state, except as otherwise provided in the enabling act of congress, and until so superseded the supreme court of the territory and the judges thereof shall continue, with like powers and jurisdiction, as if this constitution had not been adopted. Whenever the judge of the district court of any district elected under the provisions of this constitution shall have qualified in his office, the several causes then pending in the district court of the territory within any county in such district, and the records, papers and proceedings of said district court; and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the district court of the state for such county, except as provided in the enabling act of congress, and until the district courts of this territory shall be superseded in the manner aforesaid, the said district courts and the judges thereof shall continue with the same jurisdiction and power to be exercised in the same judicial districts respectively as heretofore constituted under the laws of the territory.

SEC. 8. Until otherwise provided by law, the seals now in use in the supreme and district courts of this territory are hereby declared to be the seals of the supreme and district courts respectively of the state.

SEC. 9. Whenever this constitution shall go into effect, the books, records and papers, and proceedings of the probate court in each county, and all causes and matters of administration and other matters pending therein, shall pass into the jurisdiction and possession of the county court of the same county, and the said county court shall proceed to final decree or judgment, order or other determination in the said several matters and causes as the said probate court might have done if this constitution had not been adopted. And until the election and qualification of the judges of the county courts provided for in this constitution, the probate judges shall act as the judges of the county courts within their respective counties, and the seal of the probate court in each county shall be the seal of the county court therein, until the said court shall have procured a proper seal.

SEC. 10. The terms "probate court" or "probate judge" whenever occurring in the statutes of the territory shall, after this constitution goes into effect, be held to apply to the county court or county judge.

SEC. 11. Any person may be a senator or representative in the general assembly who is an elector in the territory at the time of the ratification of this constitution.

SEC. 12. All territorial, county and precinct officers, who may be in office at the time this constitution takes effect, whether holding their offices under the authority of the United States or of the territory, shall hold and exercise their respective offices, and perform the duties thereof as prescribed in this constitution, until their successors shall



be elected and qualified in accordance with the provisions of this constitution, and official bonds of all such officers shall continue in full force and effect as though this constitution had not been adopted; and such officers for their term of service, under this constitution, shall receive the same salaries and compensation as is by this constitution or by the laws of the territory provided for like officers.

SEC. 13. This constitution shall take effect and be in full force immediately upon the admission of the territory as a state.

SEC. 14. Immediately upon the adjournment of this convention the governor of the territory, or in case of his absence or failure to act, the secretary of the territory, or in case of his absence or failure to act, the president of the constitutional convention shall issue a proclamation, which shall be published and a copy thereof mailed to the chairman of the board of county commissioners of each county, calling an election by the people on the first Tuesday in October, 1889, of all the state and district officers created and made elective by this constitution.

SEC. 15. The board of commissioners of the several counties shall thereupon order such election for said day, and shall cause notice thereof to be given in the manner and for the length of time provided by the laws of the territory in cases of general elections for delegates to congress and county and other officers. Every qualified elector of the territory, at the date of said election, shall be entitled to vote thereat. Said election shall be conducted in all respects in the same manner as provided by the laws of the territory for general elections, and the returns for all state and district officers, and members of the general assembly, shall be made to the canvassing board hereinafter provided for.

SEC. 16. The governor, secretary and chief justice or a majority of them, shall constitute a board of canvassers to canvass the vote of such elections for all state and district officers and members of the general assembly. The said board shall assemble at the seat of government of the territory on the fifteenth day after the day of such election (or on the following day if such day fall on Sunday), and proceed to canvass the votes on the adoption of this constitution and for all state and district officers and members of the general assembly in the manner provided by the laws of the territory for canvassing the vote for delegate to congress, and they shall issue certificates of election to the persons found to be elected to said offices severally, and shall make and file with the secretary of the territory an abstract certified by them, of the number of votes cast for or against the adoption of the constitution, and for each person for each of said offices and of the total number of votes cast in each county.

SEC. 17. All officers elected at such election shall, within sixty days after the date of the executive proclamation admitting the state of North Dakota into the union, take the oath required by this constitution, and give the same bond required by the law of the territory to be given in case of like officers of the territory and districts, and shall thereupon enter upon the duties of their respective offices; but the general assembly may require by law all such officers to give other or further bonds as a condition of their continuance in office.

SEC. 18. All officers elected at said election shall hold their offices until the general assembly shall provide by law, in accordance with this constitution, for the election of their successors, and until such successors shall be elected and qualified.

SEC. 19. The governor elect of the state immediately upon his qualifying and entering upon the duties of his office shall issue his proclamation convening the general assembly of the state at the seat of government, on a day to be named in said proclamation, and which shall not be less than thirty nor more than sixty days after the date of such proclamation. But if this constitution shall be ratified by the people at an election to be held as herein provided, the General Assembly of North Dakota, shall assemble at the capitol in the city of Bismarck, at 12 o'clock, noon, on Wednesday, the 30th day of October, A. D., 1889, and organize and proceed to elect two Senators of the United

States for the State of North Dakota, one for the full term and one for the short term to be designated at the time of their election respectively, and at said election the two persons who shall receive a majority of all the votes cast by said senators and representatives, shall be elected such United States senators for such designated terms respectively, and the presiding officers of the senate and house shall each certify the election to the Governor and Secretary of the State of North Dakota, and the Governor and Secretary of State shall certify the elections of such senators as provided by law.

SEC. 20. All the existing archives, records and books belong to the Territory of Dakota shall belong to and be a part of the public records of the state of North Dakota and be deposited at the seat of government of the said state with the secretary of state.

SEC. 21. This constitution is formed and the state of North Dakota asks to be admitted into the Union on an equal footing with the original states, on the condition and faith of the terms and propositions stated and specified in act of congress approved February 22, A. D. 1889, authorizing the people of North Dakota to form a constitution and state government, the people of the state of North Dakota hereby accepting the conditions in said act specified.

Which was read the first time.

Mr. Stevens moved to adjourn.

Which motion prevailed, and the Convention adjourned.

J. G. HAMILTON,  
Chief Clerk.

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MONDAY, July 22, 1889.

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

The President presiding.

Prayer was offered by the Rev. C. F. Bollinger.

The roll was called, and all members absent were excused.

Mr. Purcell moved that all standing committees be required to make reports by Thursday next.

Which motion prevailed.

Mr. Williams introduced the following resolution:

*Resolved*, That the official reporter be required to furnish to the chief clerk of the convention each day, as near as possible, the manuscript of his report of the proceedings of the preceding day.

*Resolved*, That whenever a member of the Convention shall be of the opinion that he is incorrectly reported, he may apply to the reporter for a correction. In case of disagreement between them, the matter may be brought before the Convention for disposition. It is hereby made the duty of the chief clerk of the Convention to make a full and complete index of the journal and debates, and it shall be a part of the duties of the chief clerk and official reporter to revise the proofs of the printed matter as they come from the printer, and each member of the Convention shall, if he so desires, be afforded the opportunity of examining the proof sheets of any portion of the debates for the purpose of making such corrections only as referred to above. The whole work shall be completed and the volumes bound within sixty (60) days after the rising of the Convention.