

FRIDAY, JULY 26, 1889.

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

The President presiding.

Prayer was offered by the Chaplain.

The roll was called, all members being present except Messrs. Hegge, Lohnes, Paulson, Sandager, Spalding, Stevens, Turner and Whipple, who were excused.

The Journal of the preceding session was read corrected and approved.

PETITIONS, COMMUNICATIONS, ETC.

Mr. Camp introduced the following memorial:

*Resolved*, That this Convention submit to the United States senate committee on irrigation and reclamation of arid lands, the following memorial:

*To the Honorable United States Senate Committee on Irrigation and Reclamation of Arid Lands.*

**GENTLEMEN:** The Constitutional Convention for North Dakota duly assembled at Bismarck under the enabling act of congress passed at the last session of congress and representing the people of North Dakota familiar with their industries and pursuits, with their resources and necessities, has learned with interest and gratification that it is the expressed purpose of your honorable committee to inquire into the needs of North Dakota in the matter of artificial water supply.

To North Dakota this is a subject of such exceeding importance that this Convention is moved to memorialize your honorable committee, and through you the senate of the United States as follows:

First. We beg your attention to the fact that the great fertility of the soil of North Dakota has been shown by many seasons of sufficient rain fall.

Second. The superiority of the grain grown in this soil—and especially of the wheat, is now a matter of repute throughout the civilized world, and is a contribution to the fame of our national resources. In the United States this wheat is almost a necessary ingredient of fine flours.

Third. That these facts have attracted to North Dakota a population of 250,000 earnest, sober, law-abiding people, possessed of a purpose to develop the land, and who have already made it a source of wealth and importance to the nation.

Fourth. That it is now demonstrated and understood that the peculiar excellence of the cereals of North Dakota is the result of climatic conditions, as well as of qualities of the soil; that one of these conditions is the dryness of the climate, which, however, in seasons of average rainfall in most parts is not so excessive as to prevent yield of crops unsurpassed in other parts of the land; but, that this desirable average implies seasons in some parts of North Dakota of insufficient precipitation, disastrous to agricultural prosperity, and discouraging to farmers.

Fifth. Therefore we earnestly urge upon the honorable committee and upon the United States senate these considerations:

(a) We recognize and approve the object before your committee, namely, the invitation of investigation and certain work at the expense of the general government looking to the establishment of reservoirs, or other systems for the irrigation of lands in need thereof, to the end that the area of public agricultural lands may be greatly increased.

(b) We also realize the fact that such enlargement of area means direct and formidable competition with the industries of North Dakota (competition especially to be dreaded since irrigated farms are the most productive in the world), while already over-production has deprived farming of nearly all profit.

(c) We recall to your attention, and to that of the honorable body which you represent, the fact that the people of North Dakota have paid into the treasury of the United States many millions of dollars for their lands, while proposed expenditures for mountain reservoirs are mainly intended to benefit regions from which comparatively nothing has been received from sales of agricultural lands.

(d) While, therefore, we do not question the benefits to accrue from expenditures for the mountain reservoir systems, we feel justified in claiming some similar expenditure for North Dakota, and a share in the paternal solicitude of the government to this extent, namely, that suitable investigation, to be followed by experimental work, be made in behalf of North Dakota to ascertain whether or not it is practicable to provide by means of artesian wells sufficient water to eliminate the dangers incident to dry seasons and to maintain the agricultural industries of the state on a footing for competition in grain production, upon which its inhabitants absolutely depend for support.

We therefore trust that your honorable committee will give to North Dakota more than a passing glance; that you will conduct an investigation with reference to its resources and its necessities, and make a report thereon which will result in the development of the former and secure, if possible, relief from the latter.

We beg you to notice that while there are certain ascertained artesian basins, the extent of such basins has not been accurately ascertained, scientific experiment and survey are needed to determine this matter, as well as the character of the water to be obtained and its influence on vegetation. Other essential facts to be ascertained will suggest themselves to your committee. The whole of a scope too great for North Dakota to undertake at the expense of its people now engaged in their early struggles to establish themselves. We confidently believe that the outcome of such work by the government, in North Dakota, will be to return to the treasury many times the amount of its expenditure in the further cash entries of government land.

Mr. Camp moved that the memorial be referred to a special committee of three, of which the President shall be Chairman.

Which motion prevailed, and

The President appointed the following committee:

The President and Messrs. McKenzie and Meacham.

Mr. Williams asked unanimous consent to withdraw all of the report of the Committee on Legislative Department except sections two and eight.

Which request was granted.

#### REPORTS OF STANDING COMMITTEES.

The Committee on Revenue and Taxation submitted the following report:

MR. PRESIDENT:

Your Committee on Revenue and Taxation would respectfully report that we have had under consideration Files Nos. 11, 23, 32, 40, 42, 44, 46, 50, 103,

111, 115, 117 and would submit the annexed substitute and recommend the adoption of the same. We have also had File No. 68 and the substitute accompanied under consideration, and return the same with the recommendation that it be not adopted.

## ARTICLE ———.

### REVENUE AND TAXATION.

**SECTION 1.** The Legislature shall provide for raising revenue sufficient to defray the expenses of the state for each year, not to exceed any one year four (4) mills on the dollar of the assessed valuation of all taxable property in the state, to be ascertained by the last assessment made for state and county purposes, and also a sufficient sum to pay the interest on the state debt.

**SEC. 2.** No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied.

**SEC. 3.** Laws shall be passed taxing by uniform rule all property according to its true value in money, but the property of the United States and the state, county and municipal corporations, both real and personal, shall be exempt from taxation, and the Legislature shall by general law exempt from taxation property used exclusively for school, religious, cemetery or charitable purposes and personal property to any amount not exceeding in value two hundred dollars for each individual liable to taxation.

**SEC. 4.** Land and the improvements thereon shall be separately assessed. Cultivated and uncultivated land of the same quality and similarly situated shall be assessed at the same value.

**SEC. 5.** The power of taxation shall never be surrendered or suspended by any grant or contract to which the state or any county or other municipal corporations shall be a party.

**SEC. 6.** All property except as hereinafter in this section provided shall be assessed in the county, city, township, town, village or district in the manner prescribed by law. The franchise, roadway, roadbed, rails and rolling stock of all railroads operated in this state shall be assessed by the State Board of Equalization at their actual value, and the same shall be apportioned to the counties, cities, towns, townships and districts in which said roads are located, in proportion to the number of miles of railway laid in such counties, cities, towns, townships and districts; *provided*, that for the purpose of assessment and taxation said railroad shall not be valued at less than three thousand dollars per mile.

**SEC. 7.** The Legislature may provide for the levy, collection and disposition of an annual poll tax of not more than three dollars on every male inhabitant of this state over twenty-one and under fifty years of age, except paupers, idiots, insane persons and Indians not taxed.

**SEC. 8.** The General Assembly are expressly prohibited from authorizing or allowing debts or liabilities of any kind to be set off against moneys, credits or other property which may be subject to taxation.

**SEC. 9.** The Legislature shall pass all laws necessary to carry out the provisions of this article.

J. L. COLTON,  
Chairman.

Mr. Moer requested that consideration of the report be postponed until Tuesday next.

Which was granted.

The minority of the Committee on Judicial Department submitted the following report:

MR. PRESIDENT:

The undersigned members of said committee, being in a minority, respectfully recommend that the report of the majority be modified and amended by

striking out sections 24, 25 and 26 thereof, relating to probate courts and justices of the peace, and that the following sections be adopted in lieu thereof;

#### COUNTY COURTS.

SEC. 24. There shall be elected in each organized county a county judge, who shall be judge of the county court of said county, whose term of office shall be two years until otherwise provided by law.

SEC. 25. County courts shall be courts of record and shall have a clerk and seal. They shall have original jurisdiction in all matters of probate, guardianship and settlement of the estates of deceased persons, and in all cases of lunacy. In counties having a population of 2,000 or over, these courts shall also have concurrent jurisdiction with the district court in all civil cases, wherein the amount in controversy or the value of the thing sued for does not exceed \$1,000, exclusive of interest and costs, except in matters of probate, guardianship and the settlement of the estate of deceased persons. Writs of error and appeals may be allowed from county to district courts, in such cases and in such manner as may be prescribed by law; *provided*, that no appeal or writ of error shall be allowed to the district court from any judgment rendered upon an appeal from a justice of the peace or police magistrate for cities and towns. County courts shall have such jurisdiction in criminal matters as the legislature may prescribe.

SEC. 26. The qualification for office of county judge in counties having 2,000 population or over, shall be the same as for judge of the district court, except he shall in addition be a resident of the county at the time of his election.

SEC. 27. County courts shall always be open for the transaction of business, except on legal holidays and non-judicial days. County judges may hold court and sit and try causes in any part of his county.

SEC. 28. County judges shall receive such salary as the legislature may prescribe, and the salary may be different in different counties, but until so prescribed the salary of county judges in counties having a population of 2,000 or over shall be \$1,500.

SEC. 29. The clerk of the district court shall also be clerk of the county court.

#### JUSTICES OF THE PEACE.

SEC. 30. The Legislature shall provide by law for the election of justices of the peace in each organized county within the state, but the number of said justices to be elected in each organized county shall be limited by law to such a number as shall be necessary for the proper administration of justice. The justices of the peace herein provided for shall have concurrent jurisdiction with the county courts in all civil actions when the amount in controversy does not exceed, exclusive of interest and costs, one hundred dollars. They shall have such jurisdiction as committing magistrates as may be prescribed by law, but in no case shall said justices of the peace have jurisdiction where the boundaries of, or titles to real estate shall come in question.

SEC. 31. The Legislature shall have power to abolish the offices of justice of the peace, and confer that jurisdiction upon judges of county courts or elsewhere.

DAVID BARTLETT.  
J. F. SELBY.  
S. H. MOORE.  
M. N. JOHNSON.  
A. D. ROBERTSON.  
R. N. STEVENS.  
W. H. ROWE.

Mr. Miller moved that the consideration of the report be postponed until July 27.

Which motion prevailed.

## REPORT OF SPECIAL COMMITTEE.

MR. PRESIDENT:

Your Committee, to whom was referred a memorial, submitted by Mr. Camp, would respectfully recommend that the Convention do not accept the invitation therein extended, and that the clerk be instructed to inform the Hon. B. W. Fuller of the decision of the Convention.

S. H. MOER,  
J. W. SCOTT,  
O. G. MEACHAM,  
Committee.

Mr. Flemington moved that the report be adopted.

Which motion prevailed.

Mr. McHugh moved that the Convention do now resolve itself into a Committee of the Whole.

Which motion was lost.

Mr. Parsons of Morton, by request, moved that when the Convention adjourn it take a recess until Tuesday, July 30.

Yeas and nays demanded.

The roll being called there were yeas 27, nays 37, viz:

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Allin,	Griggs,	Ray,
Appleton,	Haugen,	Richardson,
Bartlett, of Griggs,	Marrinan,	Robertson,
Bell,	Noble,	Rolfe,
Budge,	Nomland,	Selby,
Colton,	O'Brien,	Shuman,
Elliott,	Parsons, of Morton,	Wallace,
Fay,	Peterson,	Wellwood,
Glick,	Powles,	Mr. President,

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Bartlett, of Dickey,	Flemington,	McHugh,
Bean,	Gayton,	McKenzie,
Bennett,	Gray,	Miller,
Best,	Holmes,	Moer,
Blewett,	Hoyt,	Parsons, of Rolette,
Brown,	Johnson,	Powers,
Camp,	Lauder,	Purcell,
Carland,	Leach,	Pollock,
Carothers,	Linwell,	Rowe,
Chaffee,	Mathews,	Scott,
Clapp,	Meacham,	Slotten,
Clark,	McBride,	Williams,
Douglas,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Alma,	Lowell,	Stevens,
Harris,	Paulson,	Turner,
Hegge,	Sandager,	Whipple,
Lohnes,	Spalding,	

So the motion to take a recess until Tuesday was lost.

Mr. Clapp moved that members desiring a leave of absence make the request in writing.

Mr. Bartlett, of Griggs, moved as an amendment that no member who voted in the negative be granted a leave of absence.

Which amendment prevailed, and

The original motion as amended prevailed.

Mr. Moer moved that no leave of absence be granted except upon the statement of said member that said leave of absence is an absolute necessity.

Which motion was lost.

#### SECOND READING OF REPORTS.

The report of the Executive Committee was read the second time.

The report of the Committee on Legislative Department was read the second time.

The report of the Committee on School and other Public Lands was read the second time.

The report of the Committee on Municipal Corporations was read the second time.

The report of the Committee on Education was read the second time.

The report of the Committee on Impeachment and Removal from Office was read the second time.

The report of the Committee on Elective Franchise was read the second time.

Mr. Bartlett of Griggs, moved that the Convention do now resolve itself into a Committee of the Whole.

Which motion prevailed.

And the President called Mr. Bartlett of Griggs, to the chair.

Mr. Miller moved that vote by which the motion of Mr. Parsons of Morton, to take a recess until Tuesday July 30, was lost be reconsidered.

Ayes and nays demanded.

The roll being called there were ayes 48, nays 19, viz:

Those who voted in the affirmative were:

Messrs—  
Allin,  
Almen,  
Appleton,  
Bartlett, of Griggs,  
Bell,  
Best,  
Budge,  
Carland,

Messrs—  
Griggs,  
Harris,  
Haugen,  
Holmes,  
Hoyt,  
Lauder,  
Leach,  
Lowell,

Messrs—  
Parsons, of Morton,  
Peterson,  
Powers,  
Powles,  
Pollock,  
Ray,  
Richardson,  
Robertson,

Carothers,  
Clapp,  
Colton,  
Douglas,  
Elliott,  
Fay,  
Gayton,  
Glick,

Marrinan,  
Mathews,  
Mescham,  
McBride,  
McKenzie,  
Miller,  
Noble,  
Nomland,

Rolfe,  
Selby,  
Shuman,  
Slotten,  
Wallace,  
Wellwood,  
Williams.  
Mr. President.

Those who voted in the negative were:

Messrs—  
Bartlett, of Dickey,  
Bean,  
Bennett,  
Blewett,  
Brown,  
Camp,  
Chaffee,

Messrs—  
Clark,  
Flemington,  
Gray,  
Johnson,  
Linwell,  
McHugh,

Messrs—  
Moer,  
O'Brien,  
Parsons, of Rolette,  
Purcell,  
Rowe,  
Scott,

Absent and not voting:

Messrs—  
Hegge,  
Lohnes,  
Paulson,

Messrs—  
Sandager,  
Spalding,  
Stevens,

Messrs—  
Turner,  
Whipple,

So the motion to reconsider prevailed.

Mr. Miller moved that the Convention take a recess until Tuesday July 30.

Mr. Moer moved as an amendment that the word adjourn be substituted for recess.

Mr. McHugh moved as an amendment to the amendment, that the Convention adjourn until October 1st.

Mr. Blewett moved to adjourn.

Which motion prevailed and the Convention adjourned.

J. G. HAMILTON,  
Chief Clerk.