

X326892
36
N. B. D.



WORKS PROGRESS ADMINISTRATION

HARRY L. HOPKINS, ADMINISTRATOR

CORRINGTON GILL
ASSISTANT ADMINISTRATOR

HOWARD B. MYERS, DIRECTOR
DIVISION OF SOCIAL RESEARCH

LIBRARY
UNIVERSITY OF KENTUCKY

ANALYSIS OF CONSTITUTIONAL PROVISIONS
AFFECTING PUBLIC WELFARE IN THE STATE OF
NORTH DAKOTA

DECEMBER 1, 1936

PREPARED BY
ROBERT C. LOWE AND DAVID S. LANDER
LEGAL RESEARCH SECTION

UNDER THE SUPERVISION OF
A. ROSS ECKLER, COORDINATOR OF SPECIAL INQUIRIES
DIVISION OF SOCIAL RESEARCH

Preface

This bulletin is one of a series presenting State constitutional provisions affecting public welfare, prepared to supplement the State by State digests of public welfare laws so as to provide in abstract form the basis for the public welfare services of the several States.

The provisions quoted are those concerned directly with public welfare administration and such others as may substantially affect a public welfare program, even though only indirectly related. It would be impossible to consider within the limits of this study every remotely connected constitutional provision. The indirectly related provisions included, therefore, have been restricted to those concerning finance, legislation, and the methods of constitutional amendment.

An attempt has been made, by a careful selection of the most recent cases decided by the highest courts of the States, to indicate wherever possible how these provisions have been construed. These cases are included in footnotes appended to the constitutional provisions shown.

It is hoped that these abstracts will be useful to those interested in public welfare questions in indicating how State and local public welfare administration may be affected by constitutional powers and limitations.

North Dakota

TABLE OF CONTENTS

	<u>Page</u>
Incidence of Responsibility for Welfare Program	1
Financial Powers and Limitations	
Taxation and Assessments	2
Exemptions	5
Borrowing and Use of Credit	5
Other Income	8
Appropriations and Expenditures	9
Provisions Affecting Legislation	10
Constitutional Amendment or Revision	13

ANALYSIS OF CONSTITUTIONAL PROVISIONS AFFECTING

PUBLIC WELFARE IN NORTH DAKOTA 1/

I. Incidence of Responsibility for Welfare Program

A. The following public institutions of the State are permanently located at the places hereinafter named, each to have the lands specifically granted to it by the United States in the act of Congress approved February 22, 1889, to be disposed of and used in such manner as the legislative assembly may prescribe subject to the limitations provided in the article on school and public lands contained in this Constitution . . . 2/

B. The state, any county or city, may make internal improvements and may engage in any industry, enterprise or business, . . . but neither the state nor any political subdivision thereof shall otherwise loan or give its credit or make donations to or in aid of any individual, association or corporation except for reasonable support of the poor, nor subscribe to or become the owner of capital stock in any association or corporation. 3/

1. Constitution (1879), with all amendments to November 15, 1936.

All citations are to the Supplement (1925) to the Compiled Laws of North Dakota (1913).

2. Constitution, Art. XIX, Sec. 215.

The public institutions provided for in this section include, a school for the deaf and dumb, and a State hospital for the insane.

The following section of the Constitution makes land grants to other public institutions. The institutions provided for include a blind asylum and another State hospital for the insane. Constitution, Art. XIX, Sec. 216.

A provision to this section states as follows:

"Provided, That no other institution of a character similar to any one of those located by this article shall be established or maintained without a revision of this Constitution. Ibid.

It has been held that the word "revision" in this section means "amendment" so that new institutions may be provided for by amending the Constitution, and the calling of a constitutional convention is not necessary for this purpose. State ex rel. Miller vs. Taylor, 22 N. D. 362, 133 N. W. 1046 (1911).

3. Constitution, Art. XII, Sec. 185, as amended 1918.

A tax levied for the purpose of providing pensions for public school teachers was held not to contravene this section. The court said a tax levied for such a purpose is not a donation to any person, but is merely in the nature of an added salary allowance to public servants, and tends to increase the efficiency of the teachers. State ex rel. Haig vs. Hauge, 37 N. D. 583, 164 N. W. 289 (1917).
(Footnote forwarded)

II. Financial Powers and LimitationsA. Taxation and Assessments(1) State

(a) The legislative assembly shall provide for raising revenue sufficient to defray the expenses of the state for each year, not to exceed in any one year four 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. 4/

(Footnote #3 - Continued)

The constitutionality of an act granting pensions to mothers of children 14 years of age and under, who were unable to otherwise support them, was not questioned in a case brought up on other grounds. In re Walker, 49 N. D. 682, 193 N. W. 250 (1923).

Where a family lived in a North Dakota county for one year and received no relief except some medicine for a daughter, it was held that they had fulfilled the residence requirements for receiving relief, which were one year's residence without receiving aid. Grand Forks County vs. Du Fault, - N. D. -, 267 N. W. 136 (1936).

An act which authorized counties to issue bonds to procure seed-grain for needy farmers resident therein was held valid and not to violate this section because it was a measure intended for the "necessary support of the poor". State vs. Nelson County, 1 N. D. 88, 45 N. W. 33 (1890).

4. Constitution, Art. XI, Sec. 174.

Another section states that "the legislature may by law provide for the levy and collection of an acreage tax on lands within the state in addition to the limitation specified in section 174 in Article II of the Constitution. The proceeds of such tax shall be used to indemnify the owners of growing crops against damages by hail, provided that lands used exclusively for public roads, rights of way of common carriers, mining, manufacturing, or pasturage, may be exempt from such tax." Constitution, Art. XI, Sec. 177, adopted 1918.

The limitations of this section apply only to ad valorem property taxes and have no relation to any other form of taxation. The court held that the original intent of this section could not have been put to an absolute maximum limitation on the power of the State to levy taxes. Rather, that the only reasonable construction that could be put on this section was to hold that it applied to property taxes only, and other taxes could be assessed without regard to this four mill limitation. State ex rel. City of Fargo vs. Wetz, 40 N. D. 299, 168 N. W. 835 (1918).

(Footnote forwarded)

II. Financial Powers and Limitations (Cont'd)A. Taxation and Assessments (Cont'd)(1) State (Cont'd)

(b) All taxable property except as hereinafter in this section provided, shall be assessed in the county, city, township, village or district in which it is situated, in the manner prescribed by law. The property, including franchises of all railroads operated in this state, and of all express companies, freight line companies, dining car companies, sleeping car companies, car equipment companies, or private car line companies, telegraph or telephone companies, the property of any person, firm or corporation used for the purpose of furnishing electric light, heat or power, or in distributing the same for public use, and the property of any other corporation, firm or individual now or hereafter operating in this state, and used directly or indirectly in the carrying of persons, property or messages, shall be assessed by the State Board of Equalization in a manner prescribed by such State board of (or) commission as may be provided by law . . . 5/

(c) Taxes shall be uniform upon the same class of property including franchises, within the territorial limits of the authority levying the tax . . . 6/

(Footnote #4 - Continued)

The above case definitely overrules a former case, although not mentioning it by name, which had held that this section was intended to limit the amount of revenue the State could raise for all purposes, except to pay the interest on the State debt, and that consequently the State could not spend an amount that would equal more than four mills on the assessed valuation. State ex rel. Lenhart vs. Hanna, 28 N. D. 583, 149 N. W. 573 (1914).

5. Constitution, Art. XI, Sec. 179, as amended 1927, Laws (1927), page 499.

A State income tax law does not violate this section requiring assessment to be made in the county, city, or village because this section applies only to taxes on property, and an income tax is not a tax on property but is "a tax upon something which the owner of the property . . . has received in addition to the property which produced the income". State ex rel. Haggart vs. Nichols, - N. D. -, 265 N. W. 859 (1935).

6. Constitution, Art. XI, Sec. 176, as amended 1918.

"In this State the Legislative power to classify property for purposes of taxation is subject only to the limitation against arbitrary classification imposed by the due process and equal protection clauses in the Fourteenth Amendment to the Constitution of the United States." State ex rel. Haggart vs. Nichols, - N. D. -, 265 N. W. 859, 867 (1935).

The Legislature may divide property into classes for the purpose of taxation, but such classes must be reasonable. A tax
(Footnote forwarded)

4. North Dakota

II. Financial Powers and Limitations (Cont'd)

A. Taxation and Assessments (Cont'd)

(1) State (Cont'd)

(d) 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. 7/

(e) The legislative assembly may provide for the levy, collection and disposition of an annual poll tax of not more than one dollar and fifty cents 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. 8/

(2) Counties

No provision.

(Footnote #6 - Continued)

levied on the owners of mineral rights to lands, which was apportioned according to the number of acres to which the mineral rights extended, was held invalid under this section. The court held that since this apportionment had no relation to the type, or value of the minerals contained in the land, that it was not a reasonable classification. *Northwestern Improvement Company vs. State*, 57 N. D. 1, 220 N. W. 436 (1928).

7. Constitution, Art. XI, Sec. 175.

The provisions of this section do not inhibit the Legislature from appropriating to another purpose a surplus remaining after the accomplishment of the purpose for which the tax was imposed. So a statute transferring a surplus in the State hail insurance fund to the school fund was held valid. *State ex rel. Sathre vs. Hopton*, - N. D. -, 265 N. W. 395 (1936).

This section does not require a detailed enumeration of the object of the tax, and a statute directing that a certain amount of the county tuition fund be set aside for a State-wide teachers pension fund, was held valid, because the county tuition fund was created for public school purposes and a teachers' pension is a public school purpose. *State ex rel. Haig vs. Hauge*, 37 N. D. 583, 164 N. W. 289 (1917).

8. Constitution, Art. XI, Sec. 180.

This section does not prevent the Legislature from imposing a poll tax on women and on men over 50 years of age because the power to tax is a sovereign power of the State, and all constitutional provisions relating thereto are not grants of power, but are limitations of power, and the power to tax cannot be limited by implication, but only by positive declaration, expressed in clear, unambiguous language. *Aubol vs. Engeseth*, - N. D. -, 262 N. W. 338 (1935).

II. Financial Powers and Limitations (Cont'd)

A. Taxation and Assessments (Cont'd)

(3) Other Local Units

The legislative assembly shall provide by general law for the organization of municipal corporations, restricting their powers as to levying taxes and assessments, borrowing money and contracting debts, and money raised by taxation, loan or assessment for any purpose shall not be diverted to any other purpose except by authority of law. 9/

B. Exemptions

(1) State

. . . The legislature may by law exempt any or all classes of personal property from taxation, and within the meaning of this section, fixtures, buildings and improvements of every character whatsoever, upon land, shall be deemed personal property. The property of the United States and of the state, county and municipal corporations, and property used exclusively for school, religious, cemetery, charitable or other public purposes, shall be exempt from taxation. Except as restricted by this article, the legislature may provide for raising revenue and fixing the situs of all property for the purpose of taxation. Provided, that all taxes and exemptions in force when this amendment is adopted shall remain in force until otherwise provided by statute. 10/

(2) Counties and Other Local Units

No provision - see Sec. II, par. B, (1), above.

C. Borrowing and Use of Credit

(1) State

(a) The state may issue or guarantee the payment of bonds, provided that all bonds in excess of two million dollars shall be secured by first mortgage upon real estate in amounts not to exceed one-half of its value; or upon real and personal property of the state owned utilities, enterprises or industries, in amounts not exceeding its value, and provided further, that the state shall not issue, or guarantee bonds upon property of state owned utilities, enterprises or industries in excess of ten million dollars. 11/

9. Constitution, Art. VI, Sec. 130.

Under this section the Legislature is given plenary control over the taxing power of municipalities. State ex rel. City of Fargo vs. Wetz, 40 N. D. 299, 168 N. W. 835 (1918).

10. Constitution, Art. XI, Sec. 176, as amended 1918.

11. Constitution, Art. XII, Sec. 182, as amended 1924.
(Footnote forwarded)

6. North Dakota

II. Financial Powers and Limitations (Cont'd)

C. Borrowing and Use of Credit (Cont'd)

(1) State (Cont'd)

No further indebtedness shall be incurred by the state unless evidenced by a bond-issue, which shall be authorized by law for certain purposes, to be clearly defined. Every law authorizing a bond issue shall provide for levying an annual tax, or make other provision, sufficient to pay the interest semi-annually (semiannually), and the principal within thirty years from the date of the issue of such bonds and shall specially appropriate the proceeds of such tax, or of such other provisions to the payment of said principal and interest, and such appropriation shall not be repealed nor the tax or other provisions discontinued until such debt, both principal and interest, shall have been paid. No debt in excess of the limit named herein shall be incurred except for the purpose of repelling invasion, suppressing insurrection, defending the state in time of war or to provide for the public defense in case of threatened hostilities. 11/

(Footnote #11 - Continued)

A decision of the court construes this section as it existed by an amendment of 1918 and prior to the amendment of 1924. The only change made by the amendment of 1924 is that under it a tax must be levied to pay off the principal of the debt within 30 years of the date of the issuance of the bonds while under the amendment of 1918 this 30 year period ran from the date of the passage of the law authorizing the bonds. The other provisions of the two sections were the same.

Shortly after the 1918 amendment was adopted, the Legislature passed a statute providing for the issuing of bonds in the sum of \$2,000,000, the proceeds of which were to be used for buying all the stock in the State Bank of North Dakota. The Secretary of State refused to certify the full issue of these bonds as being within the constitutional debt limit, and an action of mandamus was brought to compel him to do so. The court said: "The main question to be determined in this case is: What is the debt limit under section 182 of the Constitution as amended? The state contends it is \$2,000,000 in addition to the existing bonded indebtedness. The defendant contends it is \$2,000,000 less \$412,000 of existing bonds of indebtedness. . . . we are firmly convinced that the contention of the state must be sustained". The reasons given were that, considering all the surrounding circumstances, the section referred to future debts, and it was the intention of the Legislature and the people that \$2,000,000 in bonds be authorized above the existing indebtedness. State vs. Hall, 44 N. D. 536, 173 N. W. 763 (1919).

In a later case the question of whether or not this section places any limitation on unsecured indebtedness was raised, and the court held that, on the authority of the above case, there was a limitation on such borrowing by the State; the limitation (Footnote forwarded)

II. Financial Powers and Limitations (Cont'd)

C. Borrowing and Use of Credit (Cont'd)

(1) State (Cont'd)

(b) No bond or evidence of indebtedness of the state shall be valid unless the same shall have endorsed thereon a certificate, signed by the auditor and secretary of state, showing that the bond or evidence of debt is issued pursuant to law and is within the debt limit . . . 12/

(2) Counties and Other Local Units

(a) The debt of any county, township, city, town, school district or any other political subdivision shall never exceed five per centum upon the assessed value of the taxable property therein; provided that any incorporated city may, by a two-thirds vote, increase such indebtedness three per centum on such assessed value beyond said five per centum limit, and a school district, by a majority vote may increase such indebtedness five per centum on such assessed value beyond said five per centum limit; provided also that any county or city by a majority vote may issue bonds upon any revenue producing utility owned by such county or city, or for the purchasing or acquiring the same or building or establishment thereof, in amounts not exceeding the physical value of such utility, industry or enterprise.

In estimating the indebtedness which a city, county, township, school district or any other political subdivision may incur, the entire amount, exclusive of the bonds upon said revenue producing utilities, whether contracted prior or subsequent to the adoption of this Constitution, shall be included; provided further, that any incorporated city may become indebted in any amount not exceeding four per centum of such assessed value without regard to the existing indebtedness of such city for the purpose of constructing or purchasing water works for furnishing a supply of water to the inhabitants of such city, or for the purpose of constructing sewers and for no other purposes whatever. All bonds and obligations in excess of the amount of indebtedness permitted by this Constitution, given by any city, county, township, town, school district, or any other political subdivision shall be void. 13/

(Footnote #11 - Continued)

being that set out in the case above. Sargent County vs. State, 47 N. D. 561, 182 N. W. 270, 294 (1921).

The State Bank of North Dakota is owned, controlled, and operated by the State, but it is a separate entity from the State itself, and is not subject to the constitutional restrictions on creating indebtedness or lending credit imposed on the State. Sargent County vs. State, 47 N. D. 561, 182 N. W. 270, 275 (1921).

12. Constitution, Art. XII, Sec. 187.

13. Constitution, Art. XII, Sec. 183, as amended 1920.

(Footnote forwarded)

8. North Dakota

II. Financial Powers and Limitations (Cont'd)

C. Borrowing and Use of Credit (Cont'd)

(2) Counties and Other Local Units (Cont'd)

(b) Any city, county, township, town, school district, or any other political subdivision incurring indebtedness shall at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due, and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrepealable until such debt be paid. 14/

D. Other Income

(1) State

All land, money or other property donated, granted or received from the United States or any other source for a university, school of mines, reform school, agricultural college, deaf and

(Footnote #13 - Continued)

A sewage disposal plant constitutes a part of the sewage system of a city and the construction of such a plant constitutes the construction of a sewer within the meaning of this section which authorizes a city to become indebted in any amount not exceeding four per cent of its assessed value without regard to the existing indebtedness of such city for the purpose of "constructing sewers". Anderson vs. City of Fargo, 64 N. D. 178, 250 N. W. 794 (1933).

Bonds issued for the purpose of constructing or buying a public utility plant payable solely out of the earnings of the plant and not a general obligation of the city, do not constitute a "debt" within the meaning of this section, and so the limitations of this section do not apply to such bonds. Thomas vs. McHugh, 65 N. D. 149, 256 N. W. 763 (1934). Lang vs. City of Cavalier, 59 N. D. 75, 228 N. W. 819 (1930).

Where the debt limitations of a county have already been reached the county officers may still issue warrants for the current expenses of the county in anticipation of the collection of taxes already levied. Such warrants do not augment the existing indebtedness of the county because such revenues assessed and in the process of collection may be considered as constructively in the treasury. Darling vs. Taylor, 7 N. D. 538, 75 N. W. 766 (1898).

A school district may issue warrants in anticipation of tax levies already made and such warrants do not constitute an "indebtedness" within the meaning of this section, because they are a special charge against the income anticipated for the year. Jones vs. Brightwood Independent School District No. 1, 63 N. D. 275, 247 N. W. 884 (1933).

14. Constitution, Art. XII, Sec. 184.

II. Financial Powers and Limitations (Cont'd)

D. Other Income (Cont'd)

(1) State (Cont'd)

dumb asylum, normal school or other educational or charitable institution or purpose, and the proceeds of all such lands and other property so received from any source, shall be and remain perpetual funds, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and applied to the specific objects of the original grants or gifts. The principal of every such fund may be increased but shall never be diminished, and the interest and income only shall be used. Every such fund shall be deemed a trust fund held by the state, and the state shall make good all losses thereof. 15/

E. Appropriations and Expenditures

(1) State

No money shall be paid out of the state treasury except upon appropriation by law and on warrant drawn by the proper officer, and no bills, claims, accounts or demands against the state, or any county or other political subdivision, shall be audited, allowed or paid until a full itemized statement in writing shall be filed with the officer or officers, whose duty it may be to audit the same. 16/

15. Constitution, Art. IX, Sec. 159.

Other sections of the Constitution provide that certain funds such as the proceeds of the public lands, escheats to the State, and gifts to the State, shall be set aside as a trust fund for school purposes. The fund may be added to but never diminished and all losses are to be made up by the State. The income only may be used and the principal remains inviolate. These sections further provide the manner in which State lands shall be sold. A board is provided to administer this trust fund. Constitution, Art. IX, Sec. 153-158, including sections 156 and 158 as amended in 1935.

16. Constitution, Art. XII, Sec. 186.

The money referred to in this section means the public funds of the State raised by taxation and fees and used in carrying on the State Government. Money raised under the Workmen's Compensation Act is not subject to the restrictions of this section although the State treasurer is custodian of the fund. State ex rel. Stearns vs. Olson, 43 N. D. 619, 175 N. W. 714 (1919).

III. Provisions Affecting Legislation

A. Regular Sessions of Legislature

(1) The sessions of the legislative assembly shall be biennial, except as otherwise provided in this constitution. 17/

(2) No regular session of the legislative assembly shall exceed sixty days, except in case of impeachment, . . . 18/

B. Special Sessions of Legislature

. . . He (the Governor) shall have power to convene the legislative assembly on extraordinary occasions . . . 19/

C. Powers of Initiative and Referendum

The legislative power of this state shall be vested in a legislature consisting of a senate and a house of representatives. The people, however, reserve the power, first, to propose measures and to enact or reject the same at the polls; second, to approve or reject at the polls any measure or any item, section, part or parts of any measure enacted by the legislature. 20/

The first power reserved is the initiative. Ten thousand electors at large may propose any measure by initiative petition. Every such petition shall contain the full text of the measure and shall be filed with the secretary of state not less than ninety days before the election at which it is to be voted upon. 20/

The second power reserved is the referendum. Seven thousand electors at large may, by referendum petition, suspend the operation of any measure enacted by the legislature, except an emergency measure. But the filing of a referendum petition against one or more items, sections or parts of any measure shall not prevent the remainder from going into effect. Such petition shall be filed with the secretary of state not later than ninety days after the adjournment of the session of the legislature at which such measure was enacted. 20/

. . . If a referendum petition is filed against an emergency petition (measure), such measure shall be a law until voted upon by the electors. And if it is then rejected by a majority of the votes cast thereon, it shall be thereby repealed. Any such measure shall be submitted to the electors at a special election if so ordered by the Governor or if the referendum petition filed against it shall be signed by thirty thousand electors at large. 20/

17. Constitution, Art. II, Sec. 55.

The Legislature meets in odd years. Constitution, Art. II, Sec. 53.

18. Constitution, Art. II, Sec. 56.

19. Constitution, Art. III, Sec. 75.

The powers of and the duties, and restrictions imposed upon a legislative assembly are the same whether in special or regular session. State ex rel. Langer vs. Olson, 44 N. D. 614, 176 N. W. 528 (1920).

20. Constitution, Art. II, Sec. 25, as amended 1918.

(Footnote forwarded)

III. Provisions Affecting Legislation (Cont'd)C. Powers of Initiative and Referendum (Cont'd)

. . . The veto power of the Government shall not extend to the measures initiated by or referred to the electors. No measures enacted or approved by a vote of the electors shall be repealed or amended by the legislature, except upon a yea and nay vote upon roll call of two-thirds of all the members elected to each house . . . 20/

D. Legislative Enactment

(1) No act of the legislative assembly shall take effect until July 1st after the close of the session, unless the legislature by a vote of two-thirds of the members present and voting, in each house shall declare it an emergency measure, which declaration shall be set forth in the act; provided, however, that no act granting a franchise or special privilege, or act creating any vested right or interest other than in the state, shall be declared an emergency measure. An emergency measure shall take effect and be in force from and after its passage and approval by the governor. 21/

(2) The legislative assembly shall not pass local or special laws in any of the following enumerated cases, that is to say: . . .

23. For the assessment or collection of taxes . . .

29. Exempting property from taxation . . . 22/

(Footnote #20 - Continued)

The section also provides the manner of voting upon such measures. Ibid.

21. Constitution, Art. II, Sec. 67, as amended 1918.

An emergency measure remains a law after the filing of a referendum petition, unless, and until, it is rejected by the voters. See page 10, Sec. III, par. C.

This section applies to special sessions as well as to regular biennial sessions. Consequently a measure passed at a special session cannot go into effect until the July first following the session, unless it is declared an emergency measure. State ex rel. Langer vs. Olson, 44 N. D. 614, 176 N. W. 528 (1920).

22. Constitution, Art. II, Sec. 69.

An inheritance tax statute which provided a greater rate of taxation on property passing to a nephew or niece than on property passing to a cousin, uncle, or aunt held not to violate this section or section 70 of the Constitution. The court said that even if this be considered a tax it does not violate the Constitution, but it is not really a tax since succession of property is allowed only by permission of the State, and the State can reserve any part or all of this property to itself. Strauss vs. State, 36 N. D. 594, 162 N. W. 908 (1917). For Sec. 70, see page 12, Sec. III, par. D, (3), of this heading.

III. Provisions Affecting Legislation (Cont'd)

D. Legislative Enactment (Cont'd)

(3) In all other cases where a general law can be made applicable, no special law shall be enacted; nor shall the legislative assembly indirectly enact such special or local law by the partial repeal of a general law . . . 23/

(4) Every bill shall be read two separate times, but the first and second readings may not be upon the same day; and the first reading may be by title of the bill only, unless upon such first reading, a reading at length is demanded. The second reading shall be at length. No legislative day shall be shorter than the natural day. 24/

(5) The provisions of this Constitution are mandatory and prohibitory unless, by express words, they are declared to be otherwise. 25/

(6) 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. 26/

(7) 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. 27/

(8) The supreme court shall consist of five judges, a majority of whom shall be necessary to form a quorum or pronounce a decision, . . . provided, however, that in no case shall any legislative enactment or law of the state of North Dakota be declared unconstitutional unless at least four of the judges shall so decide. 28/

23. Constitution Art. II, Sec. 70.

24. Constitution, Art. XLIX, Sec. 63, as amended 1933. (Laws (1935), page 494)

25. Constitution, Art. I, Sec. 21.

26. Constitution, Art. II, Sec. 61.

A statute whose title read "An act to appropriate money for the expenses of the executive, legislative and judicial departments of the State government, and for public schools" was held not to violate this section since the plurality of subjects enumerated in the title, taken together, are but one subject, i. e., a general appropriation bill for governmental expense. State ex rel. Sandaker vs. Olson, 65 N. D. 561, 260 N. W. 586 (1935).

27. Constitution, Art. III, Sec. 62.

28. Constitution, Art. IV, Sec. 89, as amended 1918.

IV. Constitutional Amendment or Revision

A. By Proposal of Legislature or People

Any amendment or amendments to the Constitution of the state may be proposed in either house of the legislature, and if the same shall be agreed to upon roll call by a majority of the members elected to each house it shall be submitted to the electors and if a majority of the votes cast thereon are affirmative, such amendment shall be a part of this Constitution. Amendments to the Constitution of the state may also be proposed by initiative petition of the electors; such petition shall be signed by twenty thousand of the electors at large and shall be filed with the secretary of state at least one hundred and twenty days prior to the election at which they are to be voted upon, and any amendment or amendments so proposed shall be submitted to the electors and shall become a part of the Constitution, if a majority of the votes cast thereon are affirmative. All provisions of the Constitution relating to the submission and adoption of measures by initiative petition and on referendum petition, shall apply to the submission and adoption of amendments to the Constitution of this state. 29/

B. By Constitutional Convention

No provision - see footnote 29.

29. Constitution, Art. XV, Sec. 202.

A dictum of the North Dakota Court states: "It is reasonably clear that the body of the (constitutional convention) delegates failed to understand, what seems to be the consensus of authorities at the present time, that the legislative assembly has the inherent power to submit the question of calling a constitutional convention to the electors; that the delegates and the convention acted on the supposition that article 15 (this section) provided the only method by which the Constitution could be changed." State ex rel. Miller vs. Taylor, 22 N. D. 362, 133 N. W. 1046 (1911). The question of whether or not the Legislature has inherent power to submit the question of calling a constitutional convention, without express provision contained in the Constitution for so doing, has not yet required a direct decision in North Dakota. Ibid.

