

The reports of the Schedule and Ordinance Committee was made special order for 9 A. M. tomorrow.

On motion of Mr. Fellows,

The vote by which the Schedule and Ordinance Committee were instructed to report tomorrow at 9 o'clock A. M. was Reconsidered.

The vote being again taken to instruct the committee to report tomorrow at 9 o'clock A. M., Motion was lost.

On motion of Mr. Sherwood,
The Convention adjourned.

TWENTY-THIRD DAY.

SIoux FALLS, Dakota, July 26, 1889.

9 o'clock A. M.

Convention called to order by the President.

Prayer by Rev. Lee.

Journal read and approved.

REPORTS OF STANDING COMMITTEES.

The minority of the Judiciary Committee presented the following report:

MR. PRESIDENT:

The undersigned members of the Judiciary Committee would respectfully represent that we have carefully examined the Sioux Falls Constitution and the Omnibus Bill, and are unable to find any provision or authority in either, by which this Convention can provide by ordinance or otherwise for the election of any other than State officers at the election held for the adoption of the Constitution. That neither the clerk of the court, register of deeds, or any other of the county officers are by the said Constitution, or Omnibus Bill, considered as State officers nor have they ever been treated as State officers in the administration of the affairs of government, but especially does the said Constitution treat and consider these officers as county officers and provides for their election at the next general election after the admission of the State into the Union. We therefore beg

leave to dissent from the opinion of the Committee heretofore submitted.

S. B. VANBUSKIRK,
GEO. C. COOPER,
H. F. FELLOWS,
THOS. STERLING,
SAMUEL A. RAMSEY,
H. W. EDDY,
A. J. BERDAHL.

Committee on Name, Boundaries and Seat of Government presented the following report:

SIoux FALLS, July 26, 1889.

Your Committee on Name, Boundaries and Seat of Government, to whom was referred the resolution presented by Mr. Goddard, of McCook county, relative to the seventh standard parallel have considered the same, and beg leave to report, that in the opinion of your committee, the Constitutional Conventions of North and South Dakota are not authorized by the "Omnibus Bill" to determine what constitutes the true seventh standard parallel. We therefore respectfully recommend that no action be taken on the resolution.

Respectfully submitted,

M. P. STROUPE,
Chairman.
S. A. WHEELER,
JONATHAN KIMBALL,
W. T. WILLIAMS,
E. G. EDGERTON,
WM. VANEPS.

On motion of Mr. Stroupe,
The report was adopted.

Report of Committee on Printing called.

Mr. Sherwood moved

To amend by substituting the words, "twenty thousand" wherever the figures 10,000 appear.

Mr. Zitka moved

An amendment to the amendment that 10,000 copies be printed in the Bohemian language.

Both of which motions were carried.

Report as amended was adopted.

Mr. Spooner presented a petition from citizens of Kingsbury County, asking that the modified Australian system of voting be adopted for the regulation of the October election.

SPECIAL ORDER.

The report of the Committee on Schedule and Ordinance, relating to Minority Representation, called, and on motion of Mr. Hole, adopted.

Report of Committee on Schedule and Ordinance, relating to Prohibition, on motion of Mr. Hole, adopted.

Report of the Committee on Revenue and Finance was, on motion of Mr. Goddard, adopted.

Report of Committee on Legislative Department was, on motion of Mr. McFarland, adopted.

Moved by Mr. Dickinson

That the rules be suspended and the convention now consider the majority and minority report of the Judiciary committee relating to the election of Clerks of the circuit court.

Ayes 26; noes 23.

There not being the necessary two-thirds to suspend the rules.

The motion was lost.

On motion of Mr. Jolley

The rules were suspended and the Compact with the United States was adopted.

The committee on Schedule presented the following report:

SCHEDULE AND ORDINANCE.

SECTION 1. That no inconvenience may arise from the change of the Territorial government to the permanent State government, it is hereby declared that all writs, actions, prosecutions, claims and rights of individuals, and all bodies corporate, shall continue as if no change had taken place in this government; and all process which may be before the organization of the Judicial Department under this Constitution, issued under the authority of the Territory of Dakota, within the boundary of this State, shall be as valid as if issued in the name of the State of South Dakota.

SEC. 2. That all fines, penalties, forfeitures, and escheats accruing to the Territory of Dakota, within the boundary of the State of South Dakota, shall accrue to the use of said State.

SEC. 3. That 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 of South Dakota; and all bonds,

obligations or other undertakings, executed to this Territory, within the boundaries of the State of South Dakota, 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 which may arise before the organization of the Judicial Department, under this Constitution, and which shall then be pending, may be prosecuted to judgment, and executed in the name of the State.

SEC. 4. All officers, civil and military, now holding their offices, and appointments in this Territory, under the authority of the United States, or under the authority of the Territory of Dakota, shall continue to hold and exercise their respective offices, and appointments until superseded under this Constitution,

Provided: That the provisions of the above sections shall be subject to the provisions of the act of Congress providing for the admission of the State of South Dakota, approved by the President of the United States, on February 22, 1889.

SEC. 5. This Constitution shall be submitted for adoption or rejection, to a vote of the electors, qualified by the laws of this Territory to vote at all elections, at the election to be held on Tuesday, October 1, 1889.

At the said election, the ballots shall be in the following form:

For the Constitution: Yes. No.

For Prohibition: Yes. No.

For Minority Representation: Yes. No.

As a heading to each of said ballots shall be printed on each ballot the following instructions to voters:

All persons desiring to vote for the Constitution, or for any of the articles submitted to a separate vote, must erase the word "No."

All persons who desire to vote against the Constitution, or against any article submitted separately must erase the word "Yes."

Any person may have printed or written on his ballot only the words, "For the Constitution" or "Against the Constitution," and such ballots shall be counted for or against the Constitution accordingly. The same provision shall apply to articles submitted separately.

In addition to the foregoing election for the Constitution, and for the article submitted by this Convention for a separate

vote thereon, an election shall be held at the same time and places, by the said qualified electors, for the following State officers, to be voted for on the same ballot as above provided, for votes on the Constitution and separate articles, to-wit:

A Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, Attorney General, Superintendent of Public Instruction, Commissioner of School and Public Lands, Judges of the Supreme, circuit and county courts, Representatives in Congress, State Senators, and Representatives in the Legislature.

All the elections above provided for shall be held in the same manner and form as provided, for the election for the adoption or rejection of the Constitution. And the names of all officers above specified to be voted for at such election, shall be written or printed upon the same ballots as the vote for or against the Constitution.

The judges of election in counting the ballots voted at such election, shall count all the affirmative ballots upon the Constitution as votes for the Constitution: and they shall count all the negative ballots voted at said election upon the Constitution, as votes against the Constitution; and ballots voted at said election upon which neither of said words, "yes" or "no" following the words "for the Constitution" are erased, shall not be counted upon such proposition. And they shall count all affirmative ballots so voted upon the article on prohibition, separately submitted, as votes for such article. And they shall count all negative ballots so voted upon such article, as votes against such article.

And ballots upon which neither the words "yes" or "no" following the words "For Prohibition" are erased, shall not be counted upon such proposition. And they shall count all the affirmative ballots so voted upon the article on minority representation, separately submitted, as votes for such article. And they shall count all negative ballots so voted upon such article, as votes against such article. And ballots upon which neither of said words, "yes" or "no," following the words "For minority representation" are erased, shall not be counted upon such proposition.

If it shall appear in accordance with the returns hereinafter provided for, that a majority of the votes polled at such election, for and against the Constitution, are for the Constitution, then this Constitution shall be the Constitution of the State of South Dakota. If it shall appear, according to the returns hereinafter provided for, that a majority of all votes cast at said election for and against "prohibition" are for prohibition, then said Article XXIV shall be and form a part of this Constitution, and be in

full force and effect as such from the date of said election. But if a majority of said votes shall appear, according to said returns, to be against prohibition, then Article XXIV shall be null and void and shall not be a part of this Constitution.

And if it shall appear, according to the returns hereinafter provided for, that a majority of all votes cast at said election for and against minority representation, are for minority representation, then Article XXV shall be and form a part of said Constitution, and be in full force and effect as such from the date of said election. But if a majority of said votes shall appear, according to said returns, to be against minority representation, then said Article XXV shall be null and void and shall not be a part of this Constitution.

At such election the person voted for, for any one of the offices to be filled at such election, who shall receive the highest number of votes cast at said election, shall be declared elected to said office.

SEC. 6. At the same time and places of election, there shall be held by said qualified electors an election for the place of the temporary seat of government.

On each ballot, and on the same ballot, on which are the matters voted for or against, as hereinbefore provided, shall be written or printed the words, "For temporary seat of Government."

(Here insert the name of the city or town or place to be voted for.)

And upon the canvass, and return of the vote, made and as hereinafter provided for, the name of the city, town, or place, which shall have received the largest number of votes for said temporary seat of government, shall be declared by the Governor, Chief Justice and Secretary of the Territory of Dakota, or by any two of them at the same time that they shall canvass the vote for or against the Constitution, together with the whole number of votes cast for each city, town or place, and the officers, above named, shall immediately after the result of said election shall have been ascertained, issue a proclamation directing the Legislature elected at said election, to assemble at the said city, town, or place so selected, on the day fixed by this schedule and ordinance.

SEC. 7. The election provided for herein shall be under the provisions of the Constitution herewith submitted, and shall be conducted, in all respects, as elections are conducted under the general laws of the Territory of Dakota, except as herein provided. No mere technicalities or informalities, in the manner or form of

election, or neglect of any officer to perform his duty with regard thereto, shall be deemed to vitiate or avoid the same, it being the true intent and object of this ordinance to ascertain and give effect to the true will of the people of the State of South Dakota, as expressed by their votes at the polls.

SEC. 8. Immediately after the election herein provided for, the judges of election at each voting place, shall make a true and complete count of all the votes duly cast at such election, and shall certify and return the result of the same with the names of all the candidates, and the number of votes cast for each candidate, and the number of votes cast for and against the Constitution, and the number of votes cast for and against Prohibition, and the number of votes cast for and against minority representation, and the number of votes cast for each city, town or place, for the "temporary seat of government," to the county clerk or auditor of their respective counties, together with one of the poll lists and election books used in said election.

SEC. 9. Within five days after said election the several boards of county canvassers, provided by law for the canvassing of the results of the election, shall make and certify to the Secretary of the Territory of Dakota, the true and correct return of the total number of votes cast for the Constitution, and against the Constitution, of the number of votes cast for and against "prohibition," and the number of votes cast for and against "minority representation," and the number of votes cast for each city, town or place as the "temporary seat of government," and of the number of votes cast for each person voted for at such election, except county officers and members of the Legislature, and shall transmit the same to the Secretary of the Territory of Dakota, by mail, and shall file with the County Clerk or Auditor of each of said counties a duplicate and certified copy of said return.

Said board of county canvassers shall issue certificates of election to the persons who shall have received the highest number of votes cast for the respective offices of Judge of the County Court, and Representatives in the Legislature, and for State Senator or Senators.

SEC. 10. When two or more counties are connected in one senatorial or representative district, it shall be the duty of the Clerks and Auditors of the respective counties to attend at the office of the County Clerk of the senior county in date of organization within twenty days after the date of election and they shall compare the votes given in the several counties comprising such Senatorial and Representative district and such

clerks or auditors shall immediately make out a certificate of election to the person having the highest number of votes in such district for State Senator or Representative or both; which certificate shall be delivered to the person entitled thereto on his application to the Clerk of the senior county of such district.

SEC. 11. The Secretary of the Territory shall receive all returns of election transmitted to him as above provided, and shall preserve the same, and after they have been canvassed as hereinafter provided, and after the admission of the State of South Dakota, into the Union, he shall deliver said returns to the proper State officer of said State of South Dakota.

Within fifteen days after said election, the Secretary of the Territory, with the Governor, and Chief Justice thereof or any two of them, shall canvass such returns, and certify the same to the President of the United States, as provided in the Enabling Act.

They shall also ascertain the total number of votes cast at such election for the Constitution and against the Constitution; The total number of votes cast for and against Prohibition, and the total number of votes cast for and against Minority Representation; and the total number of votes cast for each city, town or place as the "temporary seat of government;" and the total number of votes cast for each person voted for, for any office at said election, excepting County Judges and members of the Legislature, and shall declare the result of said election in conformity with such vote, and the Governor of the Territory shall thereupon issue a proclamation at once thereof.

They shall also make and transmit to to the State Legislature, immediately upon its organization, a list of all of the State and judicial officers who shall thus be ascertained to be duly elected.

The various county and district canvassing boards shall make and transmit to the Secretary of the Territory, the names of all persons declared by them to be elected members of the Senate and House of Representatives of the State of South Dakota; he shall make separate lists of the Senators, and Representatives so elected, which lists shall constitute the rolls under which the Senate and House of Representatives shall be organized.

The Governor of the Territory shall make and issue certificates of election to the persons who are shown by the canvass to have received the highest number of votes, for Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, Attorney General, Superintendent of Public Instruction, Com-

missioner of School and Public Lands and Judges of the Supreme, and circuit courts. Such certificates to be attested by the Secretary of the Territory.

SEC. 12. The apportionment made in this Constitution shall govern the elections above provided for, for members of the State Legislature until otherwise provided by law.

At the first election held under this Ordinance for Senators and Representatives of the Legislature, there shall be elected forty-five Senators, and one hundred and twenty-four Representatives in the State Legislature respectfully.

SEC. 13. The Legislature elected under the provisions of this Ordinance and Constitution shall assemble at the temporary seat of government on the third Tuesday in October in the year A. D. 1889, at 12 o'clock noon, and on the first day of their assemblage, the Governor and other State officers shall take the oath of office in the presence of the Legislature. The oath of office shall be administered to the members of the Legislature, and to the State officers by the Chief Justice of the Territory, or by any other officer, duly authorized by the laws of the Territory of Dakota to administer oaths.

SEC. 14. Immediately after the organization of the Legislature, and taking the oath of office by the State officers, the Legislature shall then and there proceed to the election of two Senators of the United States for the State of South Dakota, in the mode and manner provided by the laws of congress for the election of United States Senators. And the Governor and Secretary of the State of South Dakota shall certify the election of the said Senators, and two Representatives in Congress, in the manner required by law.

SEC. 15. Immediately after the election of the United States Senators as above provided for, said Legislature shall adjourn to meet at the temporary seat of government on the first Tuesday after the first Monday of January, 1890, at 12 o'clock m.

Provided, however, that if the State of South Dakota has not been admitted by proclamation or otherwise at said date, then said Legislature shall convene within ten days after the date of the admission of the State into the Union.

SEC. 16. Nothing in this Constitution or Schedule contained shall be construed to authorize the Legislature to exercise any powers except such as are necessary to its first organization, and to elect United States Senators, and to adjourn as above provided.

Nor to authorize an officer of the Executive, Administrative or Judiciary departments, to exercise any duties of his office until

the State of South Dakota shall have been regularly admitted into the Union, excepting such as may be authorized by the Congress of the United States.

SEC. 17. The Ordinances and Schedule enacted by this Convention shall be held to be valid for all the purposes thereof.

SEC. 18. That we, the people of the State of South Dakota, do ordain:

First: That perfect toleration of religious sentiment shall be secured, and that no inhabitant of this State shall ever be molested in person or property on account of his or her mode of religious worship.

Second: That we, the people inhabiting the State of South Dakota, do agree and declare, that we forever disclaim all right and title to the unappropriated public lands lying within the boundaries of South Dakota; and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States;

That the lands belonging to citizens of the United States residing without the said State, shall never be taxed at a higher rate than the lands belonging to residents of this State. That no taxes shall be imposed by the State of South Dakota on lands or property therein belonging to or which may hereafter be purchased by the United States, or reserved for its use. But nothing herein shall preclude the State of South Dakota from taxing as other lands are taxed any lands, owned or held by any Indian who has severed his tribal relation and has obtained from the United States, or from any person a title thereto by patent or other grant save and except such lands as have been, or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation, all such lands which may have been exempted by any grant or law of the United States, shall remain exempt to the extent, and as prescribed by such act of Congress.

Third. That the State of South Dakota shall assume and pay that portion of the debts and liabilities of the Territory of Dakota as provided in this Constitution.

Fourth. That provision shall be made for the establishment and maintenance of systems of public schools, which shall be open to all the children of this State, and free from sectarian control.

These ordinances shall be irrevocable without the consent of the United States, and also the people of the said State of South Dakota, expressed by their Legislative Assembly.

SEC. 19. The tenure of all officers, whose election is provided for in this schedule, on the first day of October, A. D., 1889, shall be as follows:

The Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, Attorney General, Superintendent of Public Instruction, Commissioner of School and Public Lands, Judges of county courts, shall hold their respective offices until the first Tuesday, after the first Monday, in January, A. D., 1892, at twelve o'clock M., and until their successors are elected and qualified.

The Judges of the Supreme court and circuit courts, shall hold their offices, until the first Tuesday, after the first Monday, in January, A. D., 1894, at twelve o'clock M., and until their successors are elected and qualified; subject to the provisions of Section 26, of Article V, of the Constitution.

The terms of office of the members of the legislature, elected at the first election held under the provisions of this Constitution, shall expire on the first Tuesday, after the first Monday, in January, one thousand and eight hundred and ninety-two (1892.)

SEC. 20. That the first general election under the provisions of this Constitution, shall be held on the first Tuesday, after the first Monday, in November, 1890, and every two years thereafter.

SEC. 21. The following form of ballot is adopted:

CONSTITUTIONAL TICKET.

INSTRUCTIONS TO VOTERS.

All persons desiring to vote for the Constitution, or for any of the articles submitted to a separate vote, may erase the word "No."

All persons who desire to vote against the Constitution, or any articles separately submitted, may erase the word "Yes."

For the Constitution. Yes. No.

For Prohibition. Yes. No.

For Minority Representation. Yes. No.

For as the temporary seat of government.

For Governor.

For Lieutenant Governor.

For Secretary of State.

For Auditor.

For Treasurer.

For Attorney General.

For Superintendent of Public Instruction.

For Commissioner of School and Public Lands.

For Judges of the Supreme Court.

First district.....

Second district.....

Third district.....

For Judge of the Circuit Court.....circuit.

For Representative in Congress.

For State Senator.

For Representative in the Legislature.

For County Judge.

SEC. 22. This Constitution shall be engrossed, and after adoption and signing by the Convention shall be delivered to Hon. A. J. Edgerton, the President of the Constitutional Convention, for safe keeping, and by him to be delivered to the Secretary of State as soon as he assumes the duties of his office, and printed copies thereof shall be prefixed to the books containing the laws of the State and all future editions thereof.

The President of this Convention shall also supervise the making of the copy that must be sent to the President of the United States; said copy is to be certified by the President and Chief Clerk of this Convention.

Committee

L. H. HOLE, Chairman.
 C. G. HARTLEY,
 C. R. WESTCOTT,
 A. B. MCFARLAND,
 H. F. FELLOWS,
 J. F. WOOD,
 C. BUECHLER,
 JOHN L. JOLLEY,
 L. T. BOUCHER,
 J. F. WHITLOCK,
 D. CORSON,
 P. COUCHMAN,
 S. S. PECK,
 H. W. EDDY,
 W. G. DICKINSON,
 SAMUEL A. RAMSEY,
 A. J. BERDAHL,
 WM. STODDARD,
 I. R. SPOONER,
 R. A. SMITH,
 JOHN SCOLLARD,
 WM. VANEPS.

On motion of Mr. VanBuskirk
 The Convention adjourned to 2 o'clock P. M.

2 o'clock P. M.

The Convention met pursuant to adjournment—the President in the chair.

The President announced as the order consideration of the report of the Schedule and Ordinance Committee, and

Mr. Hole moved the adoption of the report section by section.

Carried.

On motion of Mr. Hole, chairman of Schedule Committee, Section 1 was adopted as read.

On motion of Mr. Hole, Section 2 was adopted as read.

In Section 3 Mr. VanBuskirk moved, To insert the word “therein” after the word “officer.” Motion carried, and Section 3 adopted as amended.

On motion of Mr. Hole, Section 4 was adopted as read.

When Section 5 was reached, Mr. Williams offered the following amendments:

That the report of Committee on “Schedule and Ordinance” be amended as follows, to-wit:

1. That said Section 5 be amended as follows:

After the word “State” in the fourth line of the seventh paragraph, insert the words “and county.”

Also that same Section be amended to read as follows:

At the end of paragraph eight of said Section add the words “and clerks of circuit court.”

The President called Mr. Stroupe to the chair.

The question on the amendment was called,

And the ayes and noes being taken resulted as follows:

Ayes—Messrs Atkinson, Boucher, Clough, Cook, Davies, Fowles, Goddard, Hall, Henninger, Huntley, Humphrey, Matson, McFarland, O'Brien, Peck, Sherwood, Smith, Spooner, Williams, Wood of Pennington, Zitka and Mr. President.—(22.)

Noes—Anderson, Berhahl, Buechler, Coats, Cooper, Corson, Couchman, Craig, Dickinson, Diefendorf, Downing, Eddy, Edger-

ton, of Yankton, Fellows, Gifford, Hartley, Hole, Houlton, Jolley, Kimball, Lee, Lyons, Ramsey, Ringsrud, Scollard, Stoddard, Sterling, Stroupe, Thompson, VanBuskirk, VanEps, VanTassel, Westcott, Wheeler, Whitlock, Willis, Williamson, Wood, of Spink, Young—(39.)

So the amendment was lost.

On motion of Mr. Hole,
Section 5 was adopted as reported.

On motion of Mr. Hole,
Section 6 was adopted as read.

On the submission of Section 7, Mr. Peck moved as follows:

That Section 7 of the report of the Committee on Schedule be amended by adding the following thereto and this to be considered paragraph by paragraph with the other portions of said Section.

RULES REGULATING THE ELECTION TO BE HELD UNDER THE AUTHORITY OF THE ENABLING ACT FOR THE ADOPTION OR REJECTION OF THE CONSTITUTION AND THE ARTICLES SEPARATELY SUBMITTED THEREWITH AND THE REPRESENTATIVES IN CONGRESS, ALSO STATE AND JUDICIAL OFFICERS FOR SOUTH DAKOTA.

SECION 1. That at the election to be held on the first day of October, 1889, the election laws now in force in the Territory of Dakota shall apply to and govern such election except as hereinafter specially provided.

SEC. 2. Nominations for State officers, Representatives in Congress and Judges of the Supreme Court shall be made by any State convention and certified to by the Chairman and Secretary of such convention, according to form number one (1) hereinafter provided, or by any three hundred (300) legal voters in South Dakota attaching their names to a paper nominating candidates and filing the same with the Territorial Secretary.

SEC. 3. Nominations for members of the State Legislature, Judges of the circuit court and Judges of county courts, shall be made by any convention held in legislative and judicial districts or county for which any such officer is to be elected, and certified to by the chairman and secretary, according to form No. 2 hereinafter prescribed, or by any one hundred legal voters of any legislative or judicial district or county, by attaching their

names to a paper nominating such officers, and filing the same with the county clerk or county auditor to which such nominations refer.

SEC. 4. All certificates of nominations and nominating papers provided for in section two (2) shall be filed with the Territorial Secretary by the fifteenth day of September, and all those provided for in section three (3) shall be filed with the county clerk or county auditor by the twentieth day of September, 1889, and no certificate of nomination or nominating papers shall be acted upon, except accompanied with the consent in writing of the person or persons therein nominated, provided that in case of death or resignation, the authority making such nomination shall be permitted to fill such vacancy by a new nomination.

SEC. 5. The Territorial Secretary, on the receipt by him of the nominating papers hereinbefore mentioned, shall forthwith transmit true copies of the same to the county clerks or county auditors of the several counties in South Dakota.

SEC. 6. The county clerk or county auditor shall, after the expiration of the time for receiving the nominating papers, forthwith cause to be printed such a number of ballot papers as will be sufficient for the purpose of the election, and the number necessary for each polling place shall be bound or stitched in a book of convenient form, and the county clerk or county auditor shall cause to be printed in English, in large type, on cards, instructions for the guidance of voters in preparing their ballot paper; such clerk or auditor shall furnish ten (10) copies of such instructions to the judges of each election precinct, and said judges shall cause them to be posted both inside and outside of the polling place, and said county clerk or county auditor shall, as provided by law, cause to be delivered to the proper judges of election the ballot box and all poll books and returns now by law required or by this ordinance required to conduct and complete the election, also the ballot papers, at least two (2) days before polling the vote; and shall cause to be published in each newspaper in the county a true copy of the ballot paper and card of instructions, said publication to be in the last issue of said papers before the day of voting.

SEC. 7. Every ballot paper shall contain the names of all candidates for representatives in Congress, State, and judicial officers, and members of the Legislature, and the name of the political party to which each candidate belongs; also the form of the ballot for the adoption or rejection of the Constitution and the

articles separately submitted therewith, as provided in this ordinance.

SEC. 8. Each polling place shall be furnished with a sufficient number of compartments, in which the voter, screened from observation, shall mark his ballot paper, and a guard rail so constructed that only persons within such rail can approach within ten (10) feet of the ballot box, and it shall be the duty of judges of election in each polling place to see that a sufficient number of such places be provided and shall appoint a person to guard the entrance to such compartments and he shall be paid the same as judges of election.

SEC. 9. The voters being admitted one at a time for each compartment where the poll is held shall declare his name, and when permitted by the judges to vote his name shall be entered on the voters' list, and he shall receive from one of the judges of election a ballot paper on the back of which the initials of one of the judges of election shall be so placed that when the ballot paper is folded they can be seen without opening it, and the judges of election shall instruct him how to mark his ballot paper.

SEC. 10. The voter, on receiving his ballot paper, shall forthwith proceed to one of the compartments of the polling station and there without undue delay, not exceeding five minutes, mark his ballot paper by putting a cross (x) in the space to the right-hand side of the name of the person for whom he desires to vote and if he desires to vote for any person whose name is not on his ballot paper he may write or paste on his ballot paper the name of the person for whom he desires to vote, and shall then fold up his ballot paper so that the initials on the back can be seen without opening, and hand it to one of the judges who shall, without opening it, ascertain that the initials are on it and that it is the same ballot paper given to the voter, and shall then place it in the ballot box and the voter shall quit the polling compartment as soon as his ballot paper has been put in the ballot box.

SEC. 11. The judges of election, on the application of any voter who is unable to vote in the manner provided, shall assist such voter by marking his ballot paper in the manner desired by such voter in the presence of the persons permitted to be in the compartment occupied by the judges and no others, and shall place such ballot paper in the ballot box, and when the judges of election shall not understand the language spoken by the voter claiming to vote, they shall swear an interpreter, who shall be

the means of communication between them and the voter with reference to all matters required to enable such voter to vote.

SEC. 12. A voter who has inadvertently dealt with the ballot paper given him in such manner that it cannot be conveniently used, may, on delivering the same to the judges, obtain another ballot paper in place of that so delivered up.

SEC. 13. Any voter refusing to take the oath or affirmation of qualification as required by law, when requested so to do, shall not receive a ballot paper, or be permitted to vote.

SEC. 14. No person shall be allowed to take his ballot paper out of the polling place, nor, except as in the case provided for by Section Eleven (11), to show it when marked to any person so as to allow the name of the candidate for whom he has voted to be known, and any voter who violates or refuses to comply with this ordinance shall not be permitted to vote.

SEC. 15. In addition to the judges and clerks of election, one watcher at each polling precinct for each political party presenting a candidate or candidates for the suffrage of the voters and no others shall be permitted to be in the compartment occupied by the judges on election day, and such judges, clerks and watcher shall, before entering upon their respective duties take and subscribe to the following oath or affirmation: I, John Jones, do solemnly swear (or affirm) that I will keep secret the names of the candidates for whom any voter may have marked his ballot paper in my presence at this election, so help me God. Signed J. J.

Sworn or (affirmed) before me at——this first day of October, 1889.

Justice of the peace or judge of election.

SEC. 16. Immediately on the close of the poll the judges in the presence of the clerks of election and such of the watchers and voters as desire to be present, shall open the ballot box and proceed to count the number of votes for each candidate; in doing so, they shall reject all ballot papers which have not been supplied by them as judges of said election, all ballots by which more candidates have been voted for than there are officers to be elected; also those upon which there is any writing or mark by which the voter can be identified; all the ballots voted and counted, and those rejected, those spoiled and those unused, shall be put into separate envelopes, and all these parcels shall be endorsed so as to indicate their contents, and be placed in the ballot box and a return of the result of the election at the polling precinct shall be made to the county clerk or county auditor, as now

required by law for the election of members of the Territorial Legislature.

SEC. 17. All expenses incurred under these rules to be a charge against the county and audited and paid as other claims against the county.

Mr. Scollard moved

To lay the amendment on the table.

The ayes and noes being called, the vote resulted as follows:

Ayes—Messrs. Buechler, Scollard—(2).

Noes—Anderson, Atkinson, Berdahl, Boucher, Clough, Coats, Cook, Corson, Couchman, Craig, Davies, Dickinson, Diefendorf, Downing, Eddy, Edgerton of Yankton, Fellows, Fowles, Gifford, Goddard, Hall, Hartley, Henninger, Hole, Houlton, Huntley, Humphrey, Jolley, Kimball, Lee, Lyons, Matson, McFarland, O'Brien, Peck, Ramsey, Ringsrud, Sherwood, Smith, Spooner, Stoddard, Sterling, Stroupe, Thompson, VanBuskirk, VanEps, VanTassel, Westcott, Wheeler, Whitlock, Willis, Williams, Williamson, Wood of Spink, Young, Zitka, and Mr. President—(57.)

On motion of Mr. Willis,

It was ordered that when the Convention adjourns it be to meet at 8 P. M.

On motion of Mr. Williams,

The Convention adjourned.

8 o'clock P. M.

The President called Mr. Jolley to the chair, and

Discussion upon amendment to Schedule Committee continued.

Vote being taken on the amendment offered by Mr. Peck the result was:

Ayes—Messrs. Anderson, Atkinson, Berdahl, Clough, Davies, Dickinson, Downing, Eddy, Gifford, Goddard, Hall, Hartley, Huntley, Lee, Matson, Murphy, Peck, Ramsey, Spooner, Sterling, Westcott, Wheeler, Willis, Williams, Williamson, Wood of Spink, Young—(27).

Noes—Messrs. Boucher, Buechler, Coats, Cook, Cooper, Corson, Couchman, Craig, Diefendorf, Edgerton of Yankton, Fellows, Fowles, Henninger, Hole, Houlton, Humphrey, Jolley, Kimball, Lyons, McFarland, O'Brien, Ringsrud, Scollard, Sherwood, Stoddard, Smith, Stroupe, Thompson, VanBuskirk, VanEps, VanTassle, Whitlock, Zitka, Mr. President—(34).

So the amendment was lost.

Moved by Mr. Williams

To amend Section 7 to strike out the word "except" and insert the words "and Rules."

Motion lost.

Mr. Humphrey moved

To strike out the word "avoid" in said Section 7 and substitute therefor the word "annul."

Motion lost.

Vote being taken on Section 7, as reported by the committee, it was adopted.

Mr. Sterling moved

To postpone further consideration of the report till next Thursday.

Mr. Hole moved as an amendment

That the remainder of the report of the Schedule Committee be adopted.

Mr. Williams offered

The following amendment to the amendment to amend Section 19 and moved its adoption.

Amend Section 19 so as to read as follows:

SEC. 19. The officers provided for in this ordinance, to be elected October 1, A. D. 1889, shall continue to hold and exercise the duties of their respective offices, until their respective successors are elected and qualified under and by virtue of this Constitution and laws passed in pursuance thereto.

Motion lost.

Mr. Humphrey moved as an amendment to the amendment to strike out all in Section 19 after the words "shall be" in the third line and insert the following words: "shall be as provided in the Constitution."

Motion lost. Ayes 20; noes 30.

Mr. Edgerton of Davison raised the point of order that the motion of Mr. Hole was not an amendment to the motion to postpone and was therefore not in order.

The Chair decided the point of order well taken.

Vote being taken upon Mr. Sterling's motion to postpone till next Thursday.

Motion carried. Ayes 33; noes 21.

On motion of Mr. Lee

Convention adjourned.