

TWENTIETH DAY.

Sioux Falls, July 23d, 1889.

Two o'clock P. M.

Convention convened pursuant to adjournment, with Mr. Corson, of Lawrence in the Chair.

Prayer was offered by Mr. Matson, of Kingsbury County.

O Lord, our Heavenly Father, we thank Thee today, for Thy gracious favor shown us thus far in the history of the Convention; for as much of life as we are permitted to enjoy and for the feeling of friendship and good will which prevails among the members. And we thank Thee for the general desire to know the right in all matters, and to do justly in our deliberations. We pray at this time for a continuation of Thy blessing; may we not be perplexed in our work by any little ambitious natures; may we forget self; we pray that we may truly know what is right on all questions, and do the right fearlessly; we pray that the result of our labors may prove a lasting good to all concerned. Hear us at this time for the homes we represent; for the loved ones from whom we are separated at this time, and the several interests we for the present have abandoned. Guide us through this day and through the remaining days of the Convention and through the future of our lives, for Jesus' sake.

AMEN.

Journal of the previous day was read and approved.

The Chairman: The first order of business, is Communications and Presentation of Petitions.

Communication from the American Sabbath Union was presented by Mr. President, pro tem, as follows:

The American Sabbath Union, whose office is No. 23 Park Row, earnestly recommend that a provision should be inserted in your new Constitution, protecting and encouraging Sabbath observance, and perhaps the following form would be acceptable to the Convention: "No work or trade shall be carried on the first day or the week, usually called Sunday, except such as may be strictly charitable or necessary, and the Legislature shall pass laws regulating and encouraging the observance of the Holy

Sabbath by all the people.”

If the matter has not already been favorably acted upon by the Convention will you not kindly take the necessary steps to have this or a similar proposition adopted by the Convention and then lay the Constitution for the new State upon the sure foundation of the divine work and reap the gratitude of your own people and those of the whole country.

SIGNED:

ELIOTT F. SHEPHERD,
President of the American Sabbath Union.

U. S. MAYOR,
GEN. O. O. HOWARD,
of the Executive Committee.

J. H. KNOWLES,
WILBER F. CROFTS,
Secretary.

Mr. Clough: As there is no committee to which that can go I move that it be assigned to a special committee of five.

Motion duly seconded.

The motion prevailed.

The Chairman: I will appoint as a Committee of Special Reference on the Communication, Messrs. Clough, of Codington; Huntley, of Jerauld; Willis, of Aurora; Wood, of Pennington; and Ramsey, of Sanborn.

The Chairman: Unfinished business of the previous day; nothing I believe but special orders.

Reports from Standing Committees?

Congressional and Legislative Apportionment? No report ready.

Judiciary? Report sent to the desk.

Schedule? Not ready.

Name, Boundary and Seat of Government?

Mr. Stroupe: The report is signed by all but two of the Committee who are absent, and is sent to the desk.

State, County and Municipal Indebtedness.

Mr. Sherwood: Not ready.

Legislative, McFarland (Chairman.) Report sent to desk.

Education and School Lands? Coats (Chairman.) No report ready.

Revenue and Finance.

Goddard, Chairman: Not ready.

Printing? No response.

Expenses of the Convention?

Mr. Huntley: Not ready.

The President: The Secretary will read these reports and unless it is the desire of the Convention, the Clerk will not read that portion of each report, quoting the Constitution; they are printed, and you can examine them more particularly.

The Clerk reads the report of the Committee on Judiciary, as follows:

MR. PRESIDENT:—

Your Committee on Judiciary to whom was referred Article V of the Constitution, entitled, "Judicial Department", having had the same under consideration together with those provisions of the Omnibus Bill relating to said department, beg leave to report as follows:

FIRST. That upon the question of the power of the Convention to increase the number of Judicial Circuits, the Committee, after free discussion and examination, conclude that under Section 5 of said Omnibus Bill, allowing such changes in the Constitution as relate to the re-apportionment of Judicial Districts, such increase by this Convention is clearly authorized.

SECOND. That the Committee have likewise carefully considered the expediency and the necessity of such increase. In the older and more thickly populated counties a large volume of business has been long pending before the courts; and new counties, largely settled since the apportionment by the Convention of 1885, have added to the litigation to be disposed of in all the Circuits; and, from all the information before the Committee it is apparent that the six Judicial Circuits as provided by the Constitution of 1885 are inadequate in number for the transaction of the business pertaining thereto, and that the creation of county courts with jurisdiction as limited by the Constitution will not afford the required relief.

THIRD. That in recommending an increase from six to eight Judicial Circuits, the Committee believes the interests of justice and economy will be subserved, and that such is the least increase consistent with a proper administration of the law.

FOURTH. That in the re-apportionment made by the Committee care has been taken that the Circuits shall be formed by compact territory and bounded by county lines, and that, having reference to such compactness and the amount of business to be done, your committee believe that the apportionment, as shown by the amendment to Section 16 of Article V herewith submitted, is a just and equitable apportionment of the State into Judicial Circuits. That such apportionment annuls Section 16 of Article Five, so that the same shall read as follows;

SECTION 16. Until otherwise ordered by law said circuits shall be eight in number and constituted as follows, viz.:

FIRST CIRCUIT: The Counties of Union, Clay, Yankton, Turner, Bon Homme, Hutchinson, Charles Mix, Douglas, Todd, Gregory, Tripp and Meyer.

SECOND CIRCUIT: The Counties of Lincoln, Minnehaha, McCook, Moody and Lake.

THIRD CIRCUIT: The Counties of Brookings, Kingsbury, Deuel, Hamlin, Codington, Clark, Grant, Roberts, Day and the Whapeton and Sisseton Reservation, except such portion of said reservation as lies in Marshall County.

FOURTH CIRCUIT: The Counties of Sanborn, Davison, Aurora, Brule, Buffalo, Jerauld, Hanson, Miner, Lyman, Presho, and Pratt.

FIFTH CIRCUIT: The Counties of Beadle, Spink, Brown and Marshall.

SIXTH CIRCUIT: The Counties of Hand, Hyde, Hughes, Stanley, Sully, Potter, Faulk, Edmunds, Walworth, Campbell, McPherson, and all that portion of said State lying east of the Missouri river and not included in any other Judicial Circuit.

SEVENTH CIRCUIT: The Counties of Pennington, Custer, Fall River, Shannon, Washington, Zeibach, Sterling, Nowlin, Jackson, Washabaugh, and Lugenbeel.

EIGHTH CIRCUIT: The Counties of Lawrence, Meade, Scobey-Butte, Belano, Pyalt, Dewey, Boreman, Schnasse, Rinehart, Martin, Choteau, Ewing, Harding, and all that portion of said State west of the Missouri river and north of the Big Cheyenne River and the north fork of the Cheyenne river not included in any other Judicial Circuit.

FIFTH: The Committee further report amendments as follows: In the first line of Section 38 of said Article V, insert the word "South" before the word "Dakota", and in the third line of said Section 38 insert the word "South" before the word "Dakota". And we herewith report Article V with the changes and amendments aforesaid incorporated therein which changes and amendments are necessary to comply with the provisions of the Omnibus Enabling Act and are authorized by the same, and the Committee respectfully recommend the adoption of said Article as amended.

ARTICLE V.

JUDICIAL DEPARTMENT.

SECTION 1. The Judicial powers of the State, except as in this Constitution otherwise provided, shall be vested in the Supreme Court, Circuit Courts, County Courts, and Justices of the Peace, and such other courts as may be created by law for cities and incorporated towns.

SUPREME COURT.

SEC. 2. The Supreme Court, except as otherwise provided in this Constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State, and shall have a general su-

perintending control over all inferior courts, under such regulations and limitations as may be prescribed by law.

SEC. 3. The Supreme Court and the Judges thereof shall have power to issue writs of habeas corpus. The Supreme Court shall also have the power to issue writs of mandamus, quo warranto, certiorari, injunction and other original and remedial writs, with authority to hear and determine the same in such cases, and such regulations as may be provided by law, provided, however, that no jury trials shall be allowed in said Supreme Court, but, in proper cases, questions of fact may be sent by said court to a Circuit Court to a trial before a jury.

SEC. 4. At least two terms of the Supreme Court shall be held each year at the seat of government.

SEC. 5. The Supreme Court shall consist of three Judges, to be chosen from districts by qualified electors of the State at large, as hereinafter provided.

SEC. 6. The number of said Judges and Districts may, after five years from the admission of this State under this Constitution, be increased by law to not exceeding five.

SEC. 7. A majority of the Judges of the Supreme Court shall be necessary to form a quorum or to pronounce a decision, but one or more of said Judges may adjourn the Court from day to day or to a day certain.

SEC. 8. The term of the Judges of the Supreme Court, who shall be elected at the first election under this Constitution, shall be four years. At all subsequent elections the term of said Judges shall be six years.

SEC. 9. The Judges of the Supreme Court shall by rule, select from their number a Presiding Judge, who shall act as such for the term prescribed by such rule.

SEC. 10. No person shall be eligible to the office of Judge of the Supreme Court unless he be learned in the law, be at least thirty years of age, a citizen of the United States, nor unless he shall have resided in this State or Territory at least two years next preceding his election and at the time of his election be a resident of the district from which he is elected, but for the purpose of reelection, no Judge shall be deemed to have lost his residence in the District by reason of his removal to the seat of government in the discharge of his official duties.

SEC. 11. Until otherwise provided by law, the districts from which the said Judges of the Supreme Court shall be elected, shall be constituted as follows:

FIRST DISTRICT: All that portion of the State lying west of the Missouri river.

SECOND DISTRICT: All that portion of the State lying east of the Missouri river and south of the Second Standard Parallel.

THIRD DISTRICT: All that portion of the State lying east of the Missouri river and north of the Second Standard Parallel.

SEC. 12. There shall be a Clerk and also a Reporter of the Supreme Court, who shall be appointed by the Judges thereof, and who shall hold office during the pleasure of said Judges, and whose duties and emoluments shall be prescribed by law, and by the rules of the Supreme Court not inconsistent with law. The Legislature shall make a provision for the publication and distribution of the decisions of the Supreme Court, and for the sale of the published volumes thereof. No private person or corporation shall be allowed to secure any copyright to such decisions, but if any copyrights are secured they shall inure wholly to the benefit of the State.

SEC. 13. The Governor shall have authority to require the opinions of the Judges of the Supreme Court upon important questions of law involved in the exercise of his executive powers and upon solemn occasions.

CIRCUIT COURTS.

SEC. 14. The Circuits Courts shall have original jurisdiction of all actions and causes, both at law and in equity, and such appellate jurisdiction as may be conferred by law and consistent with this Constitution; such jurisdiction as to value and amount and grade of offense, may be limited by law. They and the Judges thereof shall also have jurisdiction and power to issue writs of habeas corpus, mandamus, quo warranto, certiorari and other original and remedial writs, with authority to hear and determine the same.

SEC. 15. The State shall be divided into judicial circuits, in each of which there shall be elected by the electors thereof, one Judge of the Circuit Court therein, whose term of office shall be four years.

SEC. 16. Until otherwise ordered by law said Circuits shall be eight in number and constituted as follows, viz:

FIRST CIRCUIT: The Counties of Union, Clay, Yankton, Turner, Bon Homme, Hutchinson, Charles Mix, Douglas, Todd, Gregory, Tripp and Meyer.

SECOND CIRCUIT: The Counties of Lincoln, Minnehaha, McCook, Moody and Lake.

THIRD CIRCUIT: The Counties of Brookings, Kingsbury, Deuel, Hamlin, Codington, Clark, Grant, Roberts, Day and the Whapeton and Sisseton Reservation, except such portion of said reservation as lies in Marshall County.

FOURTH CIRCUIT: The Counties of Sanborn, Davison, Aurora, Brule, Buffalo, Jerauld, Hanson, Miner, Lyman, Presho and Pratt.

FIFTH CIRCUIT: The Counties of Beadle, Spink, Brown, and Marshall.

SIXTH CIRCUIT: The Counties of Hand, Hyde, Hughes, Sully, Stanley, Potter, Faulk, Edmunds, Walworth, Campbell, McPherson, and all that portion of said State lying east of the Missouri river and not included in any other judicial circuit.

SEVENTH CIRCUIT: The Counties of Pennington, Custer, Fall River, Shannon, Washington, Ziebach, Sterling, Nowlin, Jackson, Washabaugh, Lugenbeel.

EIGHTH CIRCUIT: The Counties of Lawrence, Meade, Scobey, Butte, Delano, Pyatt, Dewey, Boreman, Schnasse, Rinehart, Martin, Choteau, Ewing, Harding, and all that portion of said State west of the Missouri river and north of the Big Cheyenne river and the north fork of the Cheyenne river not included in any other judicial circuit.

SEC. 17. The Legislature may, whenever two-thirds of the members of each house shall concur therein, increase the number of judicial circuits and the judges thereof, and divide the State into judicial circuits accordingly, taking care that they be formed of compact territory and be bounded by county lines, but such increase of number or change in the boundaries of districts shall not work the removal of any judge from his office during the term for which he shall have been elected or appointed.

SEC. 18. Writs of error and appeals may be allowed from the decisions of the Circuit Courts to the Supreme Court under such regulations as may be prescribed by law.

COUNTY COURTS.

SEC. 19. 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. 20. County Courts shall be courts of record and shall have original jurisdiction in all matters of probate guardianship and settlement of estates of deceased persons and such other criminal jurisdiction as may be conferred by law, provided that such courts shall not have jurisdiction in any case where the debt, damage, claim or value of the property involved shall exceed one thousand dollars, except in matters of probate guardianship and the estates of deceased persons. Writs of error and appeal may be allowed from county to circuit courts, or to the Supreme Court 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 circuit court from any judgment rendered upon an appeal from a justice of the peace or police magistrate for cities and towns.

SEC. 21. The County Court shall not have jurisdiction in cases of felony, nor shall criminal cases therein be prosecuted by indictment; but they may have such jurisdiction in criminal matters not of the grade of felony, as the Legislature may prescribe, and

the prosecutions therein may be by information or otherwise as the Legislature may provide.

JUSTICES OF THE PEACE.

SEC. 22. Justices of the Peace shall have such jurisdiction as may be conferred by law, but they shall not have jurisdiction of any case wherein the value of the property or the amount in controversy exceeds the sum of one hundred dollars, or where the boundaries or title of real property shall be called in question.

POLICE MAGISTRATE.

SEC. 23. The Legislature shall have power to provide for creating such police magistrates for cities and towns as may be deemed from time to time necessary, who shall have jurisdiction of all cases arising under the ordinances of such cities and towns respectively and such police magistrates may also be constituted ex-officio justice of the peace for their respective counties.

STATE'S ATTORNEY.

SEC. 24. The Legislature shall have power to provide for State's Attorney's and to prescribe their duties and fix their compensation; but no person shall be eligible to the office of Attorney General or State's Attorney who shall not at the time of his election be at least twenty-five years of age and possess all the other qualifications for Judges of the Circuit Courts as prescribed in this article.

MISCELLANEOUS.

SEC. 25. No person shall be eligible to the office of Judge of the Circuit Court or County Courts unless he be learned in the law, be at least twenty-five years of age, and a citizen of the United States; nor unless he shall have resided in this State or Territory at least one year next preceding his election, and at the time of his election be a resident of the county or circuit, as the case may be, for which he is elected.

SEC. 26. The Judges of the Supreme Court, Circuit Courts and County Courts shall be chosen at the first election held under the provisions of this Constitution, and thereafter as provided by law, and the Legislature may provide for the election of such officers on a different day from that on which an election is held for any other purpose, and may, for the purpose of making such provision, extend or abridge the term of office for any of such judges then holding, but not in any case more than six months. The term of office of all judges of Circuit courts, elected in the several judicial districts throughout the State shall expire on the same day.

SEC. 27. The time of holding courts within said judicial circuits and counties shall be as provided by law; but at least one term of the circuit court shall be held annually in each organized county, and the legislature shall make provision for attaching un-organized counties or territory to organized counties for judicial purposes.

SEC. 28. Special terms of said courts may be held under such regulations as may be provided by law.

SEC. 29. The judges of the circuit courts may hold courts in other circuits than their own, under such regulations as may be prescribed by law.

SEC. 30. The judges of the Supreme Court, circuit court and county courts shall each receive such salary as may be provided by law, consistent with this Constitution, and no such judge shall receive any compensation, perquisite or emoluments for or on account of his office in any form whatever, except such salary; provided, that county judges may accept and receive such fees as may be allowed under the land laws of the United States.

SEC. 31. No judge of the Supreme Court or circuit court shall act as attorney or counsellor at law, nor shall any county judge act as attorney or counsellor at law in any case which is or may be brought into his court or which may be appealed therefrom.

SEC. 32. There shall be a Clerk of the Circuit Court in each organized county, who shall also be Clerk of the County Court, and who shall be elected by the qualified electors of such county. The duties and compensation of said Clerk shall be as provided by law and regulated by the rules of the court consistent with the provisions of law.

SEC. 33. Until the Legislature shall provide by law for fixing the terms of courts, the Judges of the Supreme, Circuit and County Courts, respectively, shall fix the terms thereof.

SEC. 34. All laws relating to courts shall be general and of uniform operation throughout the State, and the organization, jurisdiction, power, proceedings and practice of all the courts of the same class or grade, so far as regulated by law, and the force and effect of such of the proceedings, judgments and decrees of such courts severally shall be uniform, provided, however, that the Legislature may classify the county courts according to the population of the respective counties and fix the jurisdiction and salary of the judges thereof accordingly.

SEC. 35. No judge of the Supreme or Circuit Courts shall be elected to any other than a judicial office, or be eligible thereto, during the term for which he was elected such judge. All votes for either of them during such term for any elective office, except that of Judge of the Supreme Court, Circuit Court or County Court, given by the Legislature or the people, shall be void.

SEC. 36. All judges or other officers of the Supreme, Circuit or County Courts provided for in this article shall hold their offices until their successors respectively are elected or appointed and qualified.

SEC. 37. All officers provided for in this article shall respectively reside in the district, county, precinct, city or town for which they may be elected or appointed. Vacancies in the elective of-

ices provided for in this article shall be filled by appointment until the next general election, as follows: All judges of the Supreme, Circuit and County Courts, by the Governor. All other judicial and other officers by the County Board of the county where the vacancy occurs; in cases of police magistrates, by the municipality.

SEC. 38. All processes shall run in the name of the "State of South Dakota". All prosecutions shall be carried on in the name of and by authority of the "State of South Dakota."

THOS. STERLING, Chmn.

H. A. HUMPHREY,

CHAUNCEY L. WOOD,

SAMUEL A. RAMSEY,

H. W. EDDY.

CARL SHERWOOD,

S. B. VAN BUSKIRK,

G. F. FELLOWS,

D. CORSON.

Mr. Van Buskirk: I move that that be made a special order for Thursday; the reason that I make it at that time is, because the report will not be printed and in the possession of the members tomorrow morning. (Motion seconded.)

Mr. Cooper: I move an amendment, that it be made the special order for tomorrow. (Amendment seconded.)

Mr. Davies: Have we not more work on hand now than we can do?

Mr. Van Buskirk: I desire to suggest, I believe the rule is that where time is contained in a motion, the longest time is put first.

The Chairman: The gentleman is right; those favoring the postponing the consideration of this report until Thursday will signify it by saying aye. The Chair is in doubt.

The motion was lost by a rising vote of twenty-seven ayes to twenty-two nays.

The President: Now the amendment will be in order that it be postponed until tomorrow afternoon.

Mr. Atkinson: I move as a substitute that it be made a special order for Wednesday afternoon.

A Voice: That is tomorrow! (Laughter).

The amendment prevailed, and the consideration of the report was postponed until Wednesday.

The Clerk reads the report of the Committee on Name, Boundary and Seat of Government, as follows:

Sioux Falls, July 23, 1889.

MR. PRESIDENT:—

Your Committee on Name, Boundaries and Seat of Government, to whom was referred Article I of the Sioux Falls Constitution, have considered the same and respectfully recommend that Section 1 of said Article I be amended by inserting the word "South" before the word Dakota,

That Section 2 of said Article I be amended by inserting the word "South" before the word Dakota, and by striking out the words "Forty-sixth parallel of north latitude; thence west along the Forty-sixth Parallel of north latitude," and in lieu thereof insert the words, "Seventh Standard Parallel; thence west on the line of the Seventh Standard Parallel produced due west;" and therefore respectfully recommend the following as Article I of the Constitution, the same being in accordance with the "Omnibus Bill."

ARTICLE I.

NAME AND BOUNDARY.

SECTION 1. The name of the State shall be South Dakota.

SEC. 2. The boundaries of the State of South Dakota shall be as follows: Beginning at the point of intersection of the western boundary line of the State of Minnesota with the northern boundary line of the State of Iowa, and running thence northerly along the western boundary line of the State of Minnesota, to its intersection with the Seventh Standard Parallel; thence west on the line of the Seventh Standard Parallel produced due west to its intersection with the Twenty-seventh Meridian of longitude west from Washington thence south on the Twenty-seventh Meridian of longitude west from Washington to its intersection with the northern boundary line of the State of Nebraska; thence easterly along the northern boundary line of the State of Nebraska to its intersection with the western boundary line of the State of Iowa; thence northerly along the western boundary line of the State of Iowa to its intersection with the northern boundary line of the State of Iowa; thence east along the northern boundary line of the State of Iowa to the place of beginning.

Respectfully submitted,

M. P. STROUPE, Chmn.

S. A. WHEELER,

W. T. WILLIAMS,

E. G. EDGERTON,

WM. VAN EPS.

Mr. Davies: I move that this report be made a special subject for consideration tomorrow at the afternoon session.

Motion seconded.

Motion prevailed.

The Clerk read the second report of the Committee on Name, Boundary and Seat of Government, as follows:

SEC. 3. Should no place voted for at said election have a majority of all votes cast upon this question, the Governor shall issue his proclamation for an election to be held in the same manner at the next general election to choose between the two places having received the highest number of votes cast at the first election on this question. This election shall be conducted in the same manner as the first election for the permanent seat of government, and the place receiving the majority of all votes cast upon this question shall be the permanent seat of government.

M. P. STROUPE, Chmn.
S. A. WHEELER,
E. G. EDGERTON,
W. T. WILLIAMS,
W. M. VAN EPS.

Mr. Stroupe: I move that the consideration of this report be made the special order for tomorrow.

Which motion prevailed.

The President; I think that the report of the Legislative Committee is not in accordance with the rule; if there is no objection, I will refer it back to the Committee to report it in form in which the rule provides. There being no objection, it will be so referred.

The President: There being no business under the call of Report of Select Committees, or Consideration of Reports of Select Committees or Presentation of Resolutions or Propositions Relating to the Constitution, we will proceed to the special order for the day; the first one is the Report of the Committee on Impeachment and Removal from Office. The Clerk will read that report.

Sioux Falls, Dak., July 19, 1889.

MR. PRESIDENT:—

Your Committee on Legislative to whom was referred Article XVI, entitled, "Impeachment and Removal From Office", have considered the same and have compared said Article XVI with the Sioux Falls Constitution and the Act of Congress known as the "Omnibus Bill", and have instructed me to report the following as Article XVI of the Constitution and that the same is in accordance with the Sioux Falls Constitution and the change thereto authorized by the Omnibus Bill.

ARTICLE XVI.

SECTION 1. The House of Representatives shall have the sole power of impeachment. The concurrence of a majority of all members elected shall be necessary to an impeachment.

SEC. 2. All impeachments shall be tried by the Senate. When sitting for that purpose the Senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. When the Governor or Lieutenant Governor is on trial the presiding judge of the Supreme Court shall preside.

SEC. 3. The Governor and other State and Judicial officers except County Judges, Justices of the Peace and Police Magistrates, shall be liable to impeachment for drunkenness, crimes, corrupt conduct or malfeasance or misdemeanor in office, but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of trust or profit under the State. The person accused, whether convicted or acquitted, shall nevertheless be liable to indictment, trial judgment and punishment according to law.

SEC. 4. All officers not liable to impeachment shall be subject to removal for misconduct, malfeasance, crime or misdemeanor in office or for drunkenness or gross incompetency in such manner as may be provided by law.

SEC. 5. No officer shall exercise the duties of his office after he shall have been impeached and before his acquittal.

SEC. 6. On trial of impeachment against the Governor the Lieutenant Governor shall not act as a member of the Court.

SEC. 7. No person shall be tried on impeachment before he shall have been served with a copy thereof at least twenty days previous to the day set for trial.

SEC. 8. No person shall be liable to impeachment twice for the same offense.

A. B. MCFARLAND,
Chairman.
S. A. RAMSEY,
W. M. COOK,
R. F. LYON.

The President: What is the pleasure of the Convention with regard to the report of the Committee on Impeachment?

Mr. Davies: I move that we adopt the report. (Motion seconded.)

Mr. Hole: I wish again to suggest a point that was raised last week sometime, and that is, whether these reports have been compared with the Constitution itself; if they have not, I am opposed to the motion; I have noticed a great many errors have crept in; I find the compared work of the Committee is very little better than the book they compared them with; sometimes not so good; it is well known by the members of the Convention that there are many mistakes, and if these are compared with the mistakes, the

second comparison is worse than the first- I think it is improper that these be reported as having been compared unless having been compared with the Constitution, not with the garbled copies.

Mr. Huntley: I understand it is the duty of the Committee on Phraseology and Arrangement to compare every report with the copy which is in their hands and if there is any departure from that, it is part of their duty to make any such corrections of mistakes as they may find.

Mr. Hole: Then why in the name of honesty, is not the report, so reported; why do they compare them with the garbled copies and find that they compare favorably with them? We are stultifying ourselves in making these reports. I am objecting to the reports being made as having been compared with the original and found correct. I object.

Mr. Willis: This Convention proceeds upon the assumption that these committees are honest. If these committees have not made these comparisons they ought to report.

Mr. Stoddard: The way I understand it, these so-called articles constitute the Constitution itself, of 1885. I do not see any necessity, or any sense of each report coming in in this way; we have got only to compare it and find it in conformity with the Omnibus Bill and also with the Sioux Falls Constitution; we suppose that these articles are the Constitution itself; it is supposed that these printed copies constitute the Constitution and we have not each one taken the time to look through the engrossed copy; that is in the hands of the President, we have not had an opportunity, we remember too, undoubtedly it will go to the Committee on Phraseology and it will be looked after there; all that we report is that we find such and such an article a part of the Constitution and then it goes to the other committees.

Mr. Matson: I suggest we are becoming a little too critical; I do not understand that we, any of us, have seen the copy of the original Constitution, or have had it before us when we voted upon the Sioux Falls Constitution.

Mr. Young: I do not think that the gentleman was talking advisedly, that objected, when he used the expression, "garbled copy" of the Constitution. These committees were comparing these reports by the corrected copy, made by the special Committee on Errata. I do not think he spoke authoritatively when he says

these reports have been compared with garbled copies; they have been compared with the corrected copy, I think in every instance.

Mr. Hole: I do not want to raise a breeze on this; I merely wanted to call attention to what seemed to me a serious matter. We were making reports and certifying that these are correct and there has not been one report yet that has gone in, or but very few as I am informed by the clerks but what have been found to be wrong though all certified by the Chairman of the Committee. That has been shown by every report here, and that every one of them, or nearly all have been found to be wrong. Our Committee have not made a report and we have not been in a position to stultify ourselves at all: I merely want to raise this question; we ought to correct that certificate that is made,—the report that is made; I think these will have to be compared with the original copy; must be. I think the record should be made to agree with the facts.

Mr. Hartley: I call attention to the next article; Article VII is reported as being made correct, while it is not; the very next Article reported by the Committee as being correct is not correct. That is the reason that we call attention to the fact that they are reporting matters which are not correct; we are making up a record that is not correct. There is one copy which reads one way, and the other printed one which reads differently; some reports follow one and some reports follow another; in many cases they are not following what is the Constitution. Judge Edgerton has either refused or failed to produce the original copy here. I think we are entitled to the possession of the Constitution we are working on; we ought to have it here; so that when any of these questions arise we can turn to it immediately. With regard to what the gentleman from Lake county (Mr. Young) said in law, a copy that is a copy would not be received in court and the fact that they compared the report that they are producing here with another copy is no evidence that it is correct. We should have the Constitution here every day through working hours now.

Mr. Sterling: I hardly think that any of the errors that may be found in any of these copies are any more than what may be termed clerical or typographical errors. I think these errors come properly under the notice of the Committee on Phraseology and Arrangement and whether the different Committees compare their reports with one copy or another copy of the Constitution, I think

it will be found to be substantially correct. And the only inaccuracies will be in the nature of typographical or clerical errors and it is peculiarly the business of that Committee to correct errors of that kind. They will not find those errors alone in these copies which we use; if I understand it rightly they will be found in the original Constitution itself; I think the duties of that Committee will extend to what is plainly a clerical error and that they will not submit their report until they have made such comparison. I think these reports must be taken as substantially correct, and that when the committee certifies that they have compared them and say these copies are copies of the different articles that they have examined that we must so take it, until the Committee on Arrangement and Phraseology take it and pass upon the simple clerical errors.

Mr. Hartley: I think after we have called the attention of the Committees to it that they have acknowledged that they have made errors and used copies that were not correct.

(Calls of question from different portions of the house.)

The motion reaching a vote was adopted and the report of the Committee on Impeachment and Removal from Office was declared adopted.

The Chairman: I will now state for the information of the Convention, I have been unable to get to work with the Committee but made arrangements this morning by which the Committee on Arrangement and Phraseology will take these reports and compare them with the original Constitution and see if there are any errors; as soon as Judge Edgerton returns and we have access to the original Constitution, that Committee will commence its work; I presume it will be able to do so tomorrow; I don't know when the Judge expects to return.

The Chairman: The next business to come before the Convention will be the consideration of a report of the Committee on Elections and Right of Suffrage; there is a little error in that report; it calls the attention of the Convention to the fact that there is apparently a clerical error in Section 9. I will state to the members of the Convention that if they have not the printed Journal of the 16th day's proceedings before them, that we have extra copies here.

Mr. Fellows: I move that the report of the Committee be

amended by putting the word "school" after the word "for" and before the word "purposes" as found in the third line from the bottom of page three of the 16th day's proceedings.

The Clerk reads report of Committee on Elections and Right of Suffrage.

MR. PRESIDENT:—

The Committee to whom was referred Article VII, entitled "Election and Right of Suffrage", respectfully report, that we find the same in conformity with the Enabling Act, and recommend that no alterations be made.

ARTICLE VII.

ELECTIONS AND RIGHT OF SUFFRAGE.

SECTION 1. Every male person resident of this State who shall be of the age of twenty-one years and upwards, not otherwise disqualified, belonging to either of the following classes, who shall be a qualified elector under the laws of the Territory of Dakota at the date of the ratification of this Constitution by the people, or who shall have resided in the United States one year, in this State six months, in the county thirty days and in the election precinct where he offers his vote ten days next preceding any election, shall be deemed a qualified elector at such election.

FIRST: Citizens of the United States.

SECOND: Persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States upon the subject of naturalization.

SEC. 2. The Legislature shall at its first session after the admission of the State into the Union, submit to a vote of the electors of the State the following question to be voted upon at the next general election held thereafter, namely: "Shall the word 'male' be stricken from the article of the Constitution relating to election and the right of suffrage." If a majority of the votes cast upon that question are in favor of striking out the word "male", it shall be stricken out and there shall thereafter be no distinction between males and females in the exercise of the right of suffrage at any election in this State.

SEC. 3. All votes shall be by ballot, but the Legislature may provide for numbering ballots for the purpose of preventing and detecting fraud.

SEC. 4. All general elections shall be biennial.

SEC. 5. Electors shall in all cases except treason, felony or breach of peace, be privileged from arrest during their attendance at elections and in going to and returning from the same. And no elector shall be obliged to do military duty on the days of elections, except in time of war or public danger.

SEC. 6. No elector shall be deemed to have lost his residence in this State by reason of his absence on business of the United

States or of this State, or in the military or naval service of the United States.

SEC. 7. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this State in consequence of being stationed therein.

SEC. 8. No person under guardianship, non compos mentis or insane, shall be qualified to vote at any election, nor shall any person convicted of treason or felony be qualified to vote at any election unless restored to civil rights.

SEC. 9. Any woman having the qualifications enumerated in Section 1 of this article, as to age, residence, and citizenship, and including those now qualified by the laws of the Territory, may vote at any election held solely for school purposes, and may hold any office in this State, except as otherwise provided for in this Constitution.

W. M. STODDARD,
W. M. COOK,
C. R. WESCOTT,
JOHN SCOLLARD,
J. F. WHITLOCK,
HARRY T. CRAIG.

Which motion prevailed.

The Chairman: The question now recurs upon the question to adopt the report of the Committee on Elections and Right of Suffrage as amended.

Which motion prevailed and the report of said Committee was declared adopted.

The Chairman: The next report is a report of the Committee on Federal Relations and Ordinance.

The Clerk read said report as follows:

MR. PRESIDENT:—

Your Committee on Federal Relations, to which the proposition or resolution presented by Mr. Boucher, relating to compact with the United States, was referred, would respectfully report that we have had the same under consideration and have decided to report herewith "An Ordinance irrevocable without the consent of the United States and the people of this State, relating to Religious Toleration, Public Lands, Taxation of Lands, Debts of the Territory of Dakota and Public Schools", and would recommend the passage of said Ordinance.

Your Committee would further report that we have had under consideration Article XXII of the Sioux Falls Constitution and find the same is defective because it does not contain all the provisions required by the Omnibus bill and we would therefore recommend that the said Article XXII be stricken out of the Constitution.

We would further report that the said ordinance contains all the provisions of said Article XXII and such additional provisions, not contained in said Article XXII as are required by the Omnibus Bill, so called, or Enabling Act.

AN ORDINANCE, irrevocable without the consent of the United States and the people of this State, relating to Religious Toleration, Public Lands, Taxation of Lands, Debts of the Territory of Dakota and Public Schools.

Be it ordained by the Constitutional Convention of the State of South Dakota:

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

SECOND: That the people inhabiting this State do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian Tribes; and 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 the said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States residing without this State shall never be taxed at a higher rate than the lands belonging to residents of this State; that no taxes shall be imposed, by this State on lands or property therein belonging to, or which may hereafter be purchased by the United States or reserved for its use. But nothing herein shall preclude this State from taxing, as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any other 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 but that all such lands shall be exempt from taxation by this State so long and to such extent as such act of Congress may prescribe.

THIRD: That the State of South Dakota shall assume and pay that portion of the debts and liabilities of the Territory of Dakota which the joint commission appointed by the Constitutional Conventions of North Dakota and South Dakota have adjusted and agreed upon as the just proportion of said debt and liabilities to be assumed and paid by South Dakota. The agreement reached respecting said debts and liabilities is incorporated in the Constitution of this State and this State obligates itself to pay its proportion of such debts and liabilities, as therein specified, the same as if they had been created by this State.

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

FIFTH: That this Ordinance shall be and remain irrevocable without the consent of the United States and the people of this State.

W. H. MURPHY,
C. A. MOULTON,
C. G. SHERWOOD,
C. J. B. HARRIS,

Mr. Dickinson: Is this Ordinance an article of the Constitution? It seems to me it ought to be passed through the hands of the Schedule and Ordinance Committee; I move that it be referred to that Committee.

Mr. Jolley: This is a very peculiar article of the Constitution; I do not think that this Committee has used proper care. So far as the suggestion made by the gentleman from Day (Mr. Dickinson) is concerned, there is such a provision in the Schedule. And here is the objection that I have; it gives all lands to the Indian and Indian Tribes and puts that land under the jurisdiction of the United States, in other words if there is any Indian owning any land in the Territory of Dakota, it cannot be used for public purposes; you cannot run a highway across it only by going to Congress; the point I wish to call the attention of the Convention to is this Ordinance irrevocable without the consent of the United States and the people of this State. The inquiry in my mind is this; if you pass such an ordinance as this and put it in the Constitution of South Dakota, you fix it so the only way it can be revoked so far as the State of South Dakota is concerned and so far as the United States is concerned is by act of Congress; I don't know but what we would have to call another Constitutional Convention in order to change this.

The Chairman: Is there any second to the motion of the gentleman from Day?

Mr. Young: I second the motion.

The motion prevailed and the report of the Committee on Federal relations was referred to the Committee on Schedule and Ordinance.

The Chairman: The next order of business is consideration of the memorial to Congress with relation to the securing a com-

mission for the purpose of making a geological and hydrographic survey of the State. Clerk reads the report as follows.

MR. PRESIDENT:—

Your Committee on Federal Relations to which was referred the resolution relating to a memorial to Congress for the appointment of a commission for the purpose of making a geological and hydrographic survey of the State would respectfully report that we have had the same under consideration and have decided to report the accompanying memorial and recommend its passage.

A MEMORIAL to the Congress of the United States requesting the appointment of a Commission for the purpose of making a geological and hydrographic survey of the State.

To the Congress of the United States:

The Constitutional Convention of the State of South Dakota, duly assembled, would respectfully represent to your honorable body that it has been demonstrated that within the limits of South Dakota there exists what is known as an artesian basin or system, but that its extent has not been fully determined. And that a desire is being generally expressed by the people of South Dakota that the matter be investigated and the extent of the system fully determined and its availability for the purposes of agriculture and manufactures be determined.

Now, therefore, the said Convention would respectfully memorialize your honorable body and request you to appoint at the earliest possible time a Commission for the purpose of making and with power to make a thorough and complete geological and hydrographic survey of the State, including mineralogical formation of the Black Hills and the artesian basin of South Dakota, and that you make the necessary appropriations therefor.

W. H. MURPHY,
C. A. HOULTON,
C. G. SHERWOOD,
C. J. B. HARRIS.

The Chairman: What is the pleasure of the Convention in regard to this memorial?

Mr. Davies: I move you, Mr. President, that we adopt this memorial.

Motion seconded.

Mr. Dickinson: I would ask if there does not already exist a geological survey of this section of the United States, and further I would inquire whether or not, after we are admitted as a state, the government would not simply refer it back to us, and say, make such surveys as you desire.

Mr. Hartley: My understanding is that when we become a

state these matters will have to be attended to by ourselves; the United States make these surveys for the territories and not for the states.

Mr. Clough: I recall being on a train crossing the State of Wisconsin from Madison to Janesville and meeting a gentleman who said he represented the United States Surveying Service; he said he was sent out by the Smithsonian Institute at the expense of the United States, to a certain section of the country. I spent the larger part of the day with him and I understood from him that the government through the Smithsonian Institute carries on these surveys. I know in the State University we have been discussing this subject and we have the understanding that while we will do something ourselves as a state, the United States Government through the Smithsonian Institute will carry on these surveys such as we ask today.

Mr. Davies: In view of the importance of this question it can do no harm making the application to Congress; I do not think there is any question about the authority of the United States to make this survey; this irrigation subject and the matter of the artesian well system is an important subject. And the eyes of the people of this United States are upon that question and if there is anything we can do to help ourselves and our sister states in this matter of irrigation let us do it; we certainly can try and no harm can be done and perhaps great good will result.

The matter under consideration reaching a vote the motion prevailed and the memorial was declared adopted.

The Chairman: The next is the report of the Committee on Education and School Lands. With regard to that report I would say, I believe Mr. Humphrey is Acting Chairman and when he went away he asked me to have that held open until his return; I will suggest further that that is a very important report. If I was on the floor of the Convention I would ask that the Convention hold it over until tomorrow.

Mr. Huntley: I move that the consideration of this report be postponed until tomorrow.

The motion was duly seconded and adopted.

The Clerk read the report of the Committee on State Institutions and Public Buildings.

Sioux Falls, South Dakota, July 18, 1889.

MR. PRESIDENT:—

Your Committee on State Institutions and Public Buildings, to whom was referred Article XIV, entitled, "State Institutions" have considered the same and compared said Article XIV with the Sioux Falls Constitution and the Act of Congress known as the "Omnibus Bill" and have instructed me to report the following as Article XIV of the Constitution and that the same is in accordance with the Sioux Falls Constitution and the changes thereto authorized by the Omnibus Bill. The insertion of the word "South" before Dakota in Section 1 comprises all the changes made.

ARTICLE XIV.

STATE INSTITUTIONS.

SECTION. 1. The charitable and penal institutions of the State of South Dakota shall consist of a penitentiary, insane hospital, a school for the deaf and dumb, a school for the blind and a reform school.

SEC. 2. The State institutions provided for in the preceding section shall be under the control of a State Board of Charities and Corrections, under such rules and restrictions as the Legislature shall provide; such Board to consist of not to exceed five members, to be appointed by the Governor and confirmed by the Senate, and whose compensation shall be fixed by law.

SEC. 3. The State University, the Agricultural College, the Normal Schools, and other educational institutions that may be sustained either wholly or in part by the State shall be under the control of a board of nine members, appointed by the Governor and confirmed by the Senate, to be designated the Regents of Education. They shall hold their office for six years, three retiring every second year

The Regents, in connection with the faculty of each institution shall fix the course of study in the same.

The compensation of the Regents shall be fixed by the Legislature.

SEC. 4. The Regents shall appoint a board of five members for each institution under their control, to be designated the Board of Trustees. They shall hold office for five years, one member retiring annually. The Trustees of each institution shall appoint the faculty of the same and shall provide for the current management of the institution but all appointments and removals must have the approval of the Regents to be valid. The Trustees of the several institutions shall receive no compensation for their services, but they shall be reimbursed for all expenses incurred in the discharge of their duties, upon presenting an itemized account of the same to the proper officer. Each Board of Trustees

at its first meeting shall decide by lot the order in which its members shall retire from office.

SEC. 5. The Legislature shall provide that the science of mining and metallurgy be taught in at least one institution of learning under the patronage of the State.

F. G. YOUNG, Chmn.
 WM. VAN EPS,
 C. G. HARTLEY,
 J. DOWNING,
 CHAUNCEY L. WOOD,
 C. BUECHLER,
 R. A. SMITH,
 J. F. WOOD.

The Chairman: What is the pleasure of the Convention in regard to this report?

Mr. Wescott: I move that the report be adopted.

Motion was duly seconded and by vote of the Convention was declared adopted.

The Chairman: The next report is the report of the Committee on Exemptions.

The Clerk read said report as follows:

Sioux Falls, Dakota, July 18, 1889.

MR. PRESIDENT:...

Your Committee on Exemptions to whom was referred Section 4, Article XXI, entitled, "Exemptions", have considered the same and have compared said Section 4, in Article XXI with the Sioux Falls Constitution and the Act of Congress known as the "Omnibus Bill" and have instructed me to report the following as Section 4, Article XXI of the Constitution and that the same is in accordance with the Sioux Falls Constitution and the changes thereto authorized by the "Omnibus Bill, without any amendments.

SEC. 4. EXEMPTIONS.—The right of the debtor to enjoy the comforts and necessities of life shall be recognized by wholesome laws exempting from forced sale a homestead, the value of which shall be limited and defined by law to all heads of families, and a reasonable amount of personal property, the kind and value of which to be fixed by general laws.

C. BUECHLER, Chmn.
 J. A. FOWLES,
 S. S. PECK,
 GEO. H. CULVER,
 GEO. C. COOPER,
 S. D. JEFFRIES,
 M. R. HENINGER,
 C. G. COATS.

Mr. Sterling: I move the adoption of the report.

Motion duly seconded and by vote of the Convention the report was adopted.

The Clerk reads the report of the Committee on Banking and Currency.

Sioux Falls, Dakota, July 19, 1889.

MR. PRESIDENT:—

Your Committee on Banking and Currency to whom was referred Article XVIII, entitled, "Banking and Currency," have considered the same and have compared said Article XVIII with the Sioux Falls Constitution and the Act of Congress known as the "Omnibus Bill", and have instructed me to report the following as Article XVIII of the Constitution and that the same is in accordance with the Sioux Falls Constitution and the changes thereto authorized by the Omnibus Bill.

ARTICLE XVIII.

BANKING AND CURRENCY.

SECTION 1. If a general banking law shall be enacted it shall provide for the registry and countersigning by an officer of this State of all bill or paper credit designed to circulate as money, and require security to the full amount thereof, to be deposited with the State Treasurer, in the approved securities of the State or of the United States to be rated at ten per cent., below their par value, and in case of their depreciation the deficiency shall be made good by depositing additional securities.

SEC. 2. Every bank, banking company or corporation shall be required to cease all banking operations within twenty years from the time of its organization, and promptly thereafter close its business, but shall have corporate capacity to sue and be sued until its business is fully closed; but the Legislature may provide by general law for the reorganization of such banks.

SEC. 3. The shareholders or stockholders of any banking corporation shall be held individually responsible and liable for all contracts, debts and engagements of such corporation to the extent of the amount of their stock therein, at the par value thereof, in addition to the amount invested in such share of stock and such individual liability shall continue for one year after any transfer or sale of stock by any stockholder or stockholders.

J. G. DAVIS, Chmn.
S. A. RAMSEY,
S. B. McFARLAND,
S. F. HUNTLEY,
C. J. BUECHLER,
C. S. GIFFORD.

Mr. Young: I move the adoption of the report.

Motion duly seconded.

Mr. Hartley: If you will excuse me, I notice that in 1885, was submitted Sec. 2, a section that I do not clearly understand; is it intended to relate to all banks?

The Chairman: I cannot answer that.

Mr. Hartley: If it is intended to reach all banks we are reaching too far; if it is intended to what we call State Banks it is all right.

Mr. Davies: The Omnibus Bill does not permit us to know anything about it; it is simply a question of changes.

The motion to adopt prevailed.

The Clerk next reads the report of the Committee on Seal and Coat of Arms as follows:

Sioux Falls, Dakota, July 19, 1889.

MR. PRESIDENT:—

Your Committee on Seal and Coat of Arms, to whom was referred Section 1, of Article XXI of the Constitution, entitled, "Seal and Coat of Arms", having had the same under careful consideration, beg leave to report the following changes necessary to comply with the provisions of the Omnibus Enabling Act, to-wit: To insert the word "South" before the word Dakota in the two instances where the words "State of Dakota" appear; and we herewith report Section 1, Article XXI, with the change aforesaid incorporated therein, viz:

ARTICLE XXI.

MISCELLANEOUS.

SECTION 1. SEAL AND COAT OF ARMS.—The design of the great seal of South Dakota shall be as follows: A circle within which shall appear in the left foreground a smelting furnace and other features of mining work. In the left background a range of hills. In the right foreground a farmer at his plow. In the right background a herd of cattle and a field of corn. Between the two parts thus described shall appear a river bearing a steamboat. Properly divided between the upper and lower edges of the circle shall appear the legend, "Under God the People Rule", which shall be the motto of the State of South Dakota. Exterior to this circle and within a circumscribed circle shall appear, in the upper part the words "State of South Dakota". In the lower part the words, "Great Seal", and the date in Arabic numerals of the year in which the State be admitted to the Union.

And respectfully recommend the adoption of the change and the submission of the Article as amended.

C. A. HOULTON,
H. A. HUMPHREY,
JOHN SCOLLARD,
J. F. WOOD.

The Chairman: What is the pleasure of the Convention in regard to the report of the Committee on Seal?

A Voice: I move its adoption.

Said motion being submitted to a vote of the Convention was duly adopted.

The Chairman: The next report is the report of the Committee on Miscellaneous Subjects.

The report was read by the Clerk as follows:

Sioux Falls, Dakota, July 18, 1888.

MR. PRESIDENT:—

Your Committee on Miscellaneous Subjects, to whom was referred Article XXI, Section 3, beg leave to report that in our opinion no change is necessary in said section, which is hereto attached.

SEC. 3. OATH OF OFFICE.—Every person elected or appointed to any office in this State, except such inferior officers as may be by law exempted, shall, before entering upon the duties thereof, take an oath or affirmation to support the Constitution of the United States and of this State, and faithfully to discharge the duties of his office.

H. W. EDDY, Chmn.
W. L. WILLIAMS,
W. M. COOK,
W. M. STODDARD,
SANFORD PARKER,
C. G. HARTLEY.

The Chairman: What is the pleasure of the Convention with regard to this report?

Mr. Wood: I move that the report be adopted.

Motion seconded and reaching a vote, was duly adopted and so declared by the Chair.

The Chairman: The next report is the report of the Committee on Executive and Administrative.

The Clerk read the report as follows:

Sioux Falls, Dakota, July 18, 1889.

MR. PRESIDENT:—

Your Committee on Article IV of the Sioux Falls Constitution, "Executive and Administrative", have considered the same and have compared said Article IV with the Act of Congress known as the "Omnibus Bill", and have instructed me to report the following as Article IV of the Constitution, and that the same is in accordance with the Sioux Falls Constitution and the Omnibus Bill.

C. R. WESCOTT,
Chairman of Committee.

ARTICLE IV.

EXECUTIVE DEPARTMENT.

SECTION 1. The executive power shall be vested in the Governor who shall hold his office for two years; a Lieutenant Governor who shall be elected at the same time and for the same term.

SEC. 2. No person shall be eligible to the office of Governor or Lieutenant Governor except a citizen of the United States and a qualified elector of the State, who shall have attained the age of thirty years, and who shall have resided two years next preceding the election within the State or Territory, nor shall he be eligible to any other office during the term for which he shall have been elected.

SEC. 3. The Governor and Lieutenant Governor shall be elected by the qualified voters of the State at the time and place of choosing members of the Legislature. The persons respectively having the highest number of votes for Governor and Lieutenant Governor shall be elected, but if two or more shall have an equal and highest number of votes for Governor or Lieutenant Governor, the two houses of the Legislature at its next regular session shall forthwith, by joint ballot, choose one of such persons for said office. The returns of the election for Governor and Lieutenant Governor shall be made in such a manner as shall be prescribed by law.

SEC. 4. The Governor shall be Commander-in-Chief of the military and naval forces of the State, except when they shall be called into the service of the United States, and may call out the same to execute the laws, suppress insurrection and repel invasion. He shall have power to convene the Legislature on extraordinary occasions. He shall at the commencement of each session communicate to the Legislature by message, information of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall transact all necessary business with the officers of the government, civil and military. He shall expedite all such measures as may be resolved upon by the Legislature and shall take care that the laws be faithfully executed.

SEC. 5. The Governor shall have the power to remit fines and forfeitures, to grant reprieves, commutations and pardons after conviction for all offenses except treason and cases of impeachment; provided, that in all cases where the sentence of the court is capital punishment, imprisonment for life or for a longer term than two years, or a fine exceeding \$200 no pardon shall be granted, sentence commuted or fine remitted except upon the recommendation in writing of a board of pardons consisting of the presiding judge, Secretary of State and Attorney General, after full hearing in open session, and such recommendation, with the reasons therefor, shall be filed in the office of the secretary of State; but the Legislature may by law in all cases regulate the manner in which the remission of fines,

pardons, commutations, and reprieves may be applied for. Upon conviction for treason he shall have the power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next regular session, when the Legislature shall either pardon or commute the sentence, direct the execution of the sentence or grant a further reprieve. He shall communicate to the Legislature at each regular session, each case of remission of fine, reprieve, commutation or pardon granted by him in the cases in which he is authorized to act without the recommendation of the said Board of Pardons, stating the name of the convict, the crime of which he is convicted, the sentence and its date, and the date of the remission, commutation, pardon or reprieve, with his reasons for granting the same.

SEC. 6. In case of death, impeachment, resignation, failure to qualify, absence from the State, removal from office, or other disability of the Governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the Lieutenant Governor.

SEC. 7. The Lieutenant Governor shall be President of the Senate, but shall have only a casting vote therein. If, during a vacancy in the office of Governor, the Lieutenant Governor shall be impeached, displaced, resign or die, or from mental or physical disease or otherwise become incapable of performing the duties of his office, the Secretary of State, shall act as Governor until the vacancy shall be filled or the disability removed.

SEC. 8. When any office shall from any cause become vacant and no mode is provided by the Constitution or law for filling such vacancy, the Governor shall have the power to fill such vacancy by appointment.

SEC. 9. Every bill which shall have passed the Legislature shall, before it becomes a law, be presented to the Governor. If he approve he shall sign it, but if not, he shall return it with his objection to the house in which it originated, which shall enter the objection at large upon the Journal and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objection, to the other house, by which it shall likewise be reconsidered, and if it be approved by two-thirds of the members present, it shall become a law; but in all such cases the vote of both houses shall be determined by the yeas and nays, and the names of the members voting for and against the bill shall be entered upon the Journal of each house respectively. If any bill shall not be returned by the Governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, unless the Legislature shall by its adjournment prevent its return; in which case it shall be filed, with his objection, in the office

of the Secretary of State, within ten days after such adjournment, or become a law.

SEC. 10. The Governor shall have power to disapprove of any item or items of any bill making appropriations of money embracing distinct items and parts or parts of the bill approved shall be a law, and the item or items disapproved shall be void, unless enacted in manner following: If the Legislature be in session he shall transmit to the House in which the bill originated a copy of the item or items thereof disapproved, together with his objection thereto, and the items objected to shall be separately reconsidered, and each item shall then take the same course as is prescribed for the passage of bills over the executive veto.

SEC. 11. Any Governor of this State who asks, receives or agrees to receive any bribe upon any understanding that his official opinion, judgment or action shall be influenced thereby, or who gives, or offers, or promises his official influence in consideration that any member of the Legislature shall give his official vote or influence on any particular side of any question or matter upon which he may be required to act in his official capacity, or who menaces any member by the threatened use of his veto power or who offers or promises any member that he, the said Governor, will appoint any particular person or persons to any office created or thereafter to be created; in consideration that any member shall give his official vote or influence on any matter pending or thereafter to be introduced into either House of the said Legislature, or who threatens any member that he, the said Governor, will remove any person or persons from any office or position with intent to in any manner influence the official action of said members, shall be punished in the manner now, or that may hereafter be provided by law, and upon conviction thereon shall forfeit all right to hold or exercise any office of trust or honor in this state.

SEC. 12. There shall be chosen by the qualified electors of the State at the times and places of choosing members of the Legislature, a Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of School and Public Lands, and Attorney General, who shall severally hold their offices for the term of two years, but no person shall be eligible to the office of Treasurer for more than two terms consecutively. They shall respectively keep their offices at the seat of government.

SEC. 13. The powers and duties of the Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of School and Public Lands, and Attorney General shall be prescribed by law.

C. R. WESCOTT,

Chairman of Executive and Administrative Com.

Mr. Jolley: I move its adoption.

Motion duly seconded by Mr. Young.

Motion prevailed and the report was declared adopted.

Clerk reads the report of Committee on Manufactures and Agriculture as follows:

TO THE PRESIDENT OF THE CONSTITUTIONAL CONVENTION SOUTH DAKOTA:

We, the undersigned Committee on Manufactures and Agriculture, do hereby respectfully report that on careful examination we find that no changes are required in those parts of the Constitution, submitted to our inspection, in order to comply with the provisions of the Enabling Act passed by the Congress of the United States.

Sioux Falls, July 19, 1889.

T. W. P. LEE,
J. F. WHITLOCK,
R. A. SMITH,
T. F. DIFENDORF,
C. S. GIFFORD,
E. G. EDGERTON,
C. R. WESCOTT,
R. F. LYONS,

Mr. Willis: I would like to ask the Chairman of that Committee for the chapter, verse and page where that report is; I am in favor of the Preamble.

Mr. Jeffries: I move that it be referred back to the Committee for amendment, to comply with the report of the Committee on Rules.

Mr. Davies: I move that it be referred to the Committee on Miscellaneous Subjects.

Mr. Young: I move its adoption as read.

Motion duly seconded.

Mr. Willis: What would be the number of the Article?

Mr. Fellows: I move that we postpone the consideration of that report.

Mr. Lee: I wish to make a remark. I was very careful regarding this Constitution; I went all through Spink County saying to my constituents that it was the best Constitution I ever read; I dislike very much to go back on my record. When I found out there was no such department here, I disliked that very much, inasmuch as that is a very important question. The hand that rocks our cradles rocks the world and the hand that holds the plow, feeds the occupants of the cradles. I wish to say right here

in public that this Convention made a mistake in appointing such a Committee, but I think we had better let it go; it looks well on paper and does no harm.

The report coming to a vote, was adopted, amidst laughter.

The Chairman: The next is the consideration of the report of the Committee on Military affairs.

The report was read by the Clerk, as follows:

Sioux Falls, Dakota, July 18, 1889.

MR. PRESIDENT:—

Your Committee on Military Affairs to whom was referred Article No. XV, entitled "Militia", have considered the same and have compared said Article No. XV with the Sioux Falls Constitution and the Act of Congress, known as the Omnibus Bill, and we report the following as article XV of the Constitution and that the same is in accordance with the Sioux Falls Constitution, and the changes thereto authorized by the Omnibus Bill, viz: The name of South Dakota in Sections One and Six in lieu of Dakota.

SECTION 1. The militia of the State of South Dakota, shall consist of all able-bodied male persons residing in the State, between the ages of 18 and 45 years, except such persons as now are or hereafter may be exempted by the laws of the United States or of this State.

SEC. 2. The Legislature shall provide by the law for the enrollment, uniforms, equipment and discipline of the militia and the establishment of volunteer and such other organizations, or both, as may be deemed necessary for the protection of the State, the preservation of order and the efficiency and good of the service.

SEC. 3. The Legislature in providing for the organization of the militia, shall conform, as nearly as practicable, to the regulations for the government of the armies of the United States.

SEC. 4. All militia officers shall be commissioned by the Governor and may hold their commissions for such period of time as the Legislature may provide, subject to removal by the Governor for cause, to be first ascertained by a Court Martial, pursuant to law.

SEC. 5. The militia shall in all cases, except treason, felony, or breach of peace, be privileged from arrest during their attendance at muster and elections, and in going and to returning from the same.

SEC. 6. All military records, banners and relics of the State, except when in lawful use, shall be preserved in the office of the Adjutant General as an enduring memorial of the patriotism and valor of South Dakota, and it shall be the duty of the Legislature to provide by law for the safe-keeping of the same.

SEC. 7. No person having conscientious scruples against

bearing arms shall be compelled to do military duty in time of peace.

Respectfully submitted,

E. E. CLOUGH,
W. H. MATSON,
T. W. P. LEE,
W. H. GODDARD.

Further:

There was submitted to your Committee a petition from Jacob Schmidt and other Russian citizens, asking that Section 7, of Article XV, be so amended as at all times exempt persons having such religious scruples from doing military duty; the Committee finds that it is not possible for this Convention to so annul said Section 7, Article XV.

E. E. CLOUGH,
Chairman Committee.

The Chairman: What is the pleasure of the Convention? I move that the report of the Committee on Military Affairs be adopted.

Motion duly seconded.

The Clerk read the further report by the same Committee with relation to a petition by Jacob Schmidt and other Russian citizens, exempting certain persons having religious scruples against bearing arms for military duty.

Mr. Clough: I would like to say that Mr. Williams (of Bon Homme) desired us to change the word "annul" found in the last line of the report to "amend".

The Chairman: If there is no objection, that amendment will be made. The Chair hears no objection, the report will be so amended. What is the pleasure of the Convention with regard to this report?

Mr. Dickinson: I move its adoption.

Which motion prevailed.

The Clerk next read the report of the Committee on County and Township Organization, as follows:

Sioux Falls, Dakota, July 20, 1889.

MR. PRESIDENT:—

Your Committee on County and Township Organization, to whom was referred Article IX, entitled, "County and Township Organization," have considered the same and have compared said article with the Sioux Falls Constitution and the Act of Congress known as the Omnibus Bill, and have instructed me to report the following as Article IX (9) of the Constitution, and that the same

is in accordance with the Sioux Falls Constitution and the changes thereto authorized by the Omnibus Bill. That no changes are made excepting prefixing the word "South" to Dakota.

J. F. WHITLOCK,
Chairman.

The Chairman: What is the pleasure of the Convention?

A Voice: I move its adoption.

Motion duly seconded.

Mr. Dickinson: I see that it compares with the corrected copy except that the word "other" should be inserted in the second line of the Sixth Section, making it read "Such other counties"; I move that that correction be made in accordance with the original draft of the Constitution by inserting the word "other" in Section Six the second line, before the word "county"—"Such other county".

Which motion was duly seconded and by vote of the Convention, adopted.

Mr. Willis: In the Preamble to this report—in the last line but one, "That no changes are made except prefixing the word "South" to Dakota. I think that is not proper; the word "South" is not a prefix. I move that it be so amended instead of using the word "prefix" use the word insert.

Motion seconded.

The motion was given an affirmative vote by the Convention and the report was declared so amended.

A Voice: I move the adoption of the report as amended.

Mr. Atkinson: I would like to have the report as amended, read.

The Clerk reads the changes made in the original report.

The motion to adopt the report thereupon prevailed.

The Chairman: That completes the special order for today; what is the further pleasure of the Convention?

Mr. Clough: I would like to raise one question of privilege; I brought up from the University of Dakota, our State University, these catalogues, (indicating) and we specially ask the members to take them home for reference. I would like to say that we had three thousand printed and before they were out there was application for two thousand of them; it will show there is some demand for them; I would like to have you take them home.

Mr. Fellows: I would like to call the attention of the Con-

vention to the fact that the Journal for the sixteenth day ought to be approved; that is the day we adjourned without doing any business, and it was neglected. I move you, Sir, that it be now approved.

The motion prevailed upon coming to a vote.

The Chairman: I will have a letter read.

Chicago, July 19th, 1889.

CHAIRMAN OF THE CONSTITUTIONAL CONVENTION:

DEAR SIR:—

I mail you today a copy of Judge Altgeld's work on "Our Penal Machinery" which gives statistics and general information in regard to the different penal systems which it is thought might be of service to the members of the Convention; if you will kindly have the Clerk send us the names and address of the members of the Convention we will mail each a copy free of charge. The work is highly recommended by the ablest prison reformers of the country and is distributed in the interest of prison reform.

Very respectfully yours,

C. J. FORD.

Suite 53, 115 Monroe St., Chicago.

The Chairman: I will state to the Convention that I took the liberty this morning to request the Clerk of the Convention to send in the names as this is quite a large book and one I presume the gentlemen would like to have anyway; I have requested the Clerk to forward the names.

Mr. Whitlock: I move we do now adjourn.

Which motion prevailed and the Convention stood adjourned.

