

TWENTY-SECOND DAY.

Sioux Falls, Dakota, July 25, 1889.

Two o'clock P. M.

Pursuant to adjournment, Convention convened with President Edgerton in the Chair.

Rev. Mr. Clough: Almighty God, our Heavenly Father, we thank Thee for Thy merciful providences toward us, and the comfort we have enjoyed. And now as we come to the knotty problems in our work, we pray that Thou wilt give us wisdom, and strength and discretion, and understanding that all these things may be done as they ought to be done; that we may further righteousness and good government in this new State. Guard not only the interests of the State, but those who are near and dear to us at home; for Christ's sake, we ask these blessings.

AMEN.

Mr. Young: I move that the further reading of the report as far as it relates to the reports be dispensed with.

Motion prevailed.

The President: Communications and Presentations of petitions.

Unfinished business of the previous day.

Reports from standing Committees.

Mr. Humphreys Committee on Printing make the following report:

July 25, 1889

MR. PRESIDENT:—

Your Committee on Printing have had the desirability of put-

ting into the hands of the people, the Constitution, submitted to them by this Convention, under careful consideration, have instructed me to report that they recommend that this Convention do provide for the publication and distribution of 200,000 newspaper supplements containing the Constitution and Schedule, 10,000 of which shall be printed in the German, and 10,000 in the Scandinavian language.

All of which is respectfully submitted,

H. A. HUMPHREY,
Chairman Committee.

Mr. Sterling: The Judiciary Committee have a report on a matter referred to it.

Mr. McFarland sends a report to the Secretary's desk.

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

MR. PRESIDENT:—

Your Committee on Judiciary, to whom was referred the question as to whether this Convention has the legal power to provide for the election of a circuit clerk at the October election, direct me to report that the Committee, having had said question under consideration, are of the opinion that the Convention has the legal power to provide for such election, and recommend that provision for the election of such officer be made in the Schedule and Ordinance.

THOMAS STERLING,
Chairman Judiciary Committee.

Clerk reads the report of the Committee on Legislative Department, as follows:

Sioux Falls, July 25

MR. PRESIDENT:—

Your Committee on Legislative, to whom was referred Article III, entitled, "Legislative Department", has considered the same and have compared said Article III 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 III of the

Constitution, and that the same is in accordance with the Sioux Falls Constitution and the Omnibus Bill.

No amendments made.

A. B. MCFARLAND,
Chairman
SAMUEL A. RAMSEY,
B. F. LYONS,
JOSEPH ZITKA.

Mr. Hole offered a substitute as follows:

Sioux Falls, D. T., July 25, 1889.

MR. PRESIDENT:—

Your Committee on Schedule and Submission, to whom was referred, "An ordinance irrevocable without the consent of the United States and the people of the State, relating to religious toleration, public lands, taxation of lands, debts of the Territory of Dakota and public schools," have had the same under consideration and have instructed me to report as follows:

That the following be a substitute for the above described ordinance, and that the following be substituted as Article XXII of the Sioux Falls Constitution, as being directed by the Act of Congress, known as the "Omnibus Bill", and your Committee recommend that the following be adopted as Article XXII "Compact with the United States", and that the same be adopted by this Convention.

ARTICLE XXII.

COMPACT WITH THE UNITED STATES.

The following article shall be irrevocable without the consent of the United States and the people of the State of South Dakota expressed by their Legislative Assembly.

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 and 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 re-

siding 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 Indians 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 maintainance of systems of public schools, which shall be open to all the children of this State, and free from sectarian control.

By order of Committee,

BY L. H. HOLE, Chairman.

Mr. Jolley: That was a mistake; there are two reports accompanying that.

The President: Consideration of reports of Standing Committees.

Report of the Committee on Legislative Apportionment.

Mr. Van Tassel: I move that the report be adopted.

Which motion received a second.

The Clerk reads at this point the report of the Committee on Legislative Apportionment as follows:

Sioux Falls, July 24, 1889.

MR. PRESIDENT:—

Your Committee on Congressional and Legislative Apportionment, to whom was referred Article XIX of the Constitution, having had the same under careful consideration, beg leave to submit the following report relative thereto, and in which report there are no changes of the Constitution, except as relates to the reapportionment of districts as provided for in the Omnibus Enabling Act, and adding thereto a provision that the State shall constitute one Congressional district, from which two (2) Congressmen shall be elected at large. All of which changes are within the provisions of the Enabling Act, and herewith report Article XIX with said changes incorporated therein and respectfully recommend the

adoption of the changes and the resubmission of the Article as amended.

- All of which is respectfully submitted,

C. H. VAN TASSEL,
Chairman.

W. H. MATSON,
J. V. WILLIS,
R. F. LYONS,
A. O. RINGSRUD,
JOSEPH ZITKA,
M. P. STROUPE,
WM. S. O'BRIEN,
SANFORD PARKER,
E. E. CLOUGH,
M. R. HENINGER,
I. ATKINSON,
C. R. WESCOTT,
T. W. P. LEE,
E. G. EDGERTON,
C. A. HOULTON,
J. G. DAVIES,
H. M. WILLIAMSON,
S. F. HUNTLEY,
J. A. FOWLES,
GEO. H. CULVER,
T. F. DIEFENDORF,
C. G. COATS,
T. W. THOMPSON.

The President: The report of the Committee on Legislative Apportionment is before the Convention and the Chairman of the Committee moves its adoption. Is the Convention ready for the question?

Mr. Sterling: I move as a substitute that the report of this Committee be postponed until tomorrow; I will say that this report is just received; we have had no opportunity to examine it until the last few minutes; it is an important report; I think we should have further opportunity to investigate it.

Mr. Wood: I would suggest that it be postponed until eight o'clock tonight, as I understand we meet this evening.

The motion to postpone, by rising vote, was declared lost.

The President: The question before the Convention is upon the adoption of the report of the Committee on Apportionment.

A Voice: Let it be by roll call.

Which was accordingly done, with the following result:

Those voting aye: Anderson, Atkinson, Buechler, Clough,

Cook, Cooper, Corson, Couchman, Craig, Culver, Davies, Dickinson, Diefendorf, Downing, Eddy, Edgerton, of Yankton, Fellows, Fowles, Goddard, Hall, Harris, Hartley, Heninger, Hole, Houlton, Huntly, Humphrey, Jeffries, Jolley, Kimball, Lee, Lyons, Matson, O'Brien, Peck, Ramsey, Ringsrud, Schollard, Sherwood Smith Spooner, Stoddard, Stroupe, Thompson, Van Buskirk, Van Tassel Wescott, Wheeler, Whitlock, Willis, Williams, Williamson, Wood of Pennington, Wood of Spink, Young, Zitka, and Mr. President. (57).

Those voting no: Gifford, McFarland, and Sterling. (3).

Mr. Harris: I move to reconsider the vote by which the report was adopted and lay the motion upon the table.

Which motion prevailed.

The President: Report of Select Committees.

Mr. Clough offered the following report:

Sioux Falls, Dakota, July 25, 1889.

MR. PRESIDENT:—

Your Special Committee to whom was referred the communication from the officers of the American Sabbath Union, having carefully examined the same and the matters therein referred to, beg leave to submit the following report.

That in our judgment, this Convention acting under enumerated powers fixed by and contained in the Act of Congress known as the "Omnibus Bill", have no power to change, alter or amend the Sioux Falls Constitution of 1885, by inserting the provision named in said communication, nor any similiar provision, for the reason that the power to do so is not conferred upon th's Convention by said act of Congress.

Your Committee further recommends that the Chief Clerk of this Convention send in writing to the Hon. Elliott F. Shepard Gen. O. O. Howard, U. S. A., Rev. J. H. Knowles, D. D., Rev. Wilbur F. Crafts, D. D.' officers of the American Sabbath Union, the following communication:

GENTLEMEN:—

We, the Constitutional Convention of South Dakota, hereby acknowledge the receipt of your telegraphic communication bearing date of July 20, 1889, recommending the insertion into the Constitution of South Dakota of certain provisions relating to the observance of the Sabbath Day.

We have the honor to inform you that your communication was referred to a special committee of this Convention and said Committee, after careful and mature consideration of your communication, made and submitted to this Convention the following report:

Your Special Committee to whom was referred the communication from the officers of the American Sabbath Union, hav-

ing carefully examined the same and the matters therein referred to, beg leave to submit the following report:

That in our judgment, this Convention, acting under enumerated powers fixed by and contained in the Act of Congress known as the "Omnibus" Bill, have no power to change, alter or amend the Sioux Falls Constitution of 1885, by inserting the provisions named in said communication, nor any similiar provision for the reason that the power to do so is not conferred upon this Convention by said act of Congress, which said report was unanimously adopted by the Convention.

It is therefore apparent that no further action can be taken by this Convention on your communication and the matters therein referred to.

Respectfully submitted,

E. E. CLOUGH,
S. F. HUNTLEY,
J. V. WILLIS,
SAMUEL A. RAMSEY,
CHAUNCEY L. WOOD.

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

Which motion received a second and on reaching a vote, prevailed.

Mr. Wood: I desire to move the adoption now of the report of the Judiciary Committee, relative to the special matter referred to it, relating to the Clerks of the Circuit Court at the coming election.

The President: It can only be taken up by consent.

Mr. Hole: I think it is beyond our powers to take it up and adopt it now, because other Committees have decided to the contrary. I would think it would be better to refer it to a special committee.

Mr. Van Buskirk: I desire to suggest that there is some difference of opinion in that Committee, whether it is thought best to submit a minority report I am not able to say. As far as my own opinion is concerned I am opposed to it; I do not think it is within the purview of the Convention. I object to its being taken up at this time.

The President: Having passed the order provided by the rules, I am of the opinion that it cannot now be considered only by suspension of the rules.

Mr. Wood: I move that the rules be suspended that the Con

vention consider the report of the Judiciary Committee made this morning.

The motion was declared lost.

Mr. Humphrey: For two days the report of the Committee on Education and School Lands was deferred by request and if it would be in order before we pass that head,—

The President: That is under a special order; as soon as we reach that order of business it will be considered.

The President: Reports of Select Committees.

Consideration of reports of Select Committees.

Presentation of Resolutions and Propositions relating to the Constitution.

Special Orders are now before the Convention.

MR. PRESIDENT:—

Your Committee on Education and School Lands, to whom was referred Article (8) Eight of the Constitution, entitled "Education and School Lands", having had the same under careful consideration, beg leave to report the following changes and amendments necessary to comply with the provisions of the Omnibus Enabling Act, to-wit:

First: To insert the words "and other" in the title.

Second: To strike out in the first sentence of Section 5 the words, viz: "Unless, after the year A. D. nineteen hundred, two successive Legislatures concur in a law otherwise directing".

Third: To insert the word "South" before Dakota in Section II.

Fourth: To insert the words, "and all lands donated for other than educational and charitable purposes," after the word "section" in the second line of Section 8, and we herewith report Article VIII, with the changes and amendments aforesaid incorporated therein.

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

H. A. HUMPHREY,
Acting Chmn. of Committee.

C. G. COATS,

F. G. Young,

J. DOWNING,

S. S. PECK,

W. H. MATSON,

GEO. H. CULVER,

S. F. HUNTLEY.

Mr. Humphrey: I move the adoption of the report of the Committee.

Mr. Corson: I move to strike out of the report, Amendment

No. 4, which is the last amendment, and to substitute for Sec. 8, as reported, the original Sec. 8, of the Sioux Falls Constitution. The object, I understand, of the amendment seems to be to include in that provision, railroad and school and University lands; the lands appropriated by the National Government for a capitol, fifty thousand acres.

Now, the first point I make in this motion is, that an amendment of the Constitution is not required or allowed. Under that provision Congress has donated to us for capital purposes fifty thousand acres of land, or for buildings at the capital. There is nothing in the Enabling Act requiring that to be included in the provision, providing for the sale of school lands; there is nothing in our Constitution requiring it. It is an amendment which would be like any other amendment proposed to our Constitution and it is not made necessary by any provision of the Enabling Act and is therefore improperly made at this time; it is not permissible, in other words.

Second: I make two propositions, that is that it would be injudicious at this time to include that land appropriated for the capital buildings in the provisions relating to our school and University lands. We all know that the system provided for these school and University lands is quite complicated; that they cannot, be sold for less than \$10 per acre; that special appraisals have to be made; have to be sold on long time, and a great many provisions which are perhaps proper enough as to the educational lands so that we could easily dispose of them. This question of the provision made for the capitol buildings is something that will require a different treatment. It cannot be very long before we will have a fixed place for capital and we will need buildings. Now, will this action be wise or judicious? Shall we require the people of the Territory to put their hands in their pockets and build the capitol that subsequent generations may get the benefit of the rise of these lands? I think not; therefore for both reasons. First: That it is not permissible to make this amendment, and second: That it will be injudicious to make it. I move the amendment.

Now, in order that the Convention may fully understand it if they will refer to Section 17 of the Omnibus Bill, they will find in the second subdivision the following language:

That in lieu of the grant of land for purposes of internal im-

provement made to new states by the 8th Section of the Act of September 4th, 1841, which act is hereby repealed as to the states provided for by this act, and in lieu of any claim or demand by the said states, or either of them, under the act of September 1st, 1850, and in Section 2479 of the revised statutes, making a grant of swamp and overflowed lands to certain states, which grant is hereby declared is not extended to the states provided for by this act, and in lieu of any grant of saline lands to any states, the following grants of land are hereby made, to-wit:

To the State of South Dakota: For the School of Mines, 40,000 acres; for the Reform School, 40,000 acres; for the Deaf and Dumb Asylum, 40,000 acres; for the Agricultural College, 40,000 acres; for the University, 40,000 acres; for the State Normal Schools, 80,000 acres; for public buildings at the capital of said State, 50,000 acres; and for such other educational and charitable purposes as the Legislature of said State may determine, 170,000 acres; in all, 500,000 acres.

By turning to Section 8 of the original act of our Constitution Section 8, of Article VIII, it will be found that there is no necessity for this amendment as these lands come within the provisions of that section clearly. It reads: "All lands mentioned in the preceding sections". The preceding section,—Section 7 of Article VII reads: "All lands, money or other property donated, granted or received from the United States or any other source for a University-Agricultural College, Normal School or other educational or charitable institution or purpose, and the proceeds of all such lands and other property so received from any source, shall be and remain perpetual funds, the interest and income of which, together with the rents of all such land as may remain unsold, shall be inviolably appropriated and applied to the specific objects of the grants or gifts. The principal of every such fund may be increased, but shall never be diminished, and the interest and income only, shall be used. Every fund shall be deemed a trust fund held by the State, and the State shall make good all losses therefrom that shall occur in any manner." Section 8; which I propose as an amendment, is as follow: "All lands mentioned in the preceding section shall be appraised and sold in the same manner and by the same officers and board under the same limitations, and subject to all the conditions as to price, sale, and approval provided above for the appraisal and sale of lands for the benefit of public schools, but a distinct and separate account shall be kept by the proper officers of each of such funds." Now, Mr. President, and gentlemen of the Convention, you will see, taking these two sections together, all the lands that have been granted by Congress and by virtue of this section, becoming part and parcel of this section except this 50,000 acres that has been mentioned as for the capital buildings. The object of this amendment is to include that 50,000 acres. I insist that it is not a proper amendment to make at

this time. I further argue that it is not the object of Congress in making this donation that they should not be included among that class of lands for the reason that they fixed no limitation to the price of these lands as I understand it, but for the other lands donated for educational purposes they have made them limit at \$10 per acre so that they properly come within the section that I have read. I argue therefore that the amendment should be made to this report and that these 50,000 acres be left to the disposal of the Legislature in the manner that they deem most judicious for the buildings at the capital. I believe the Legislature can be trusted in this manner; they will all have an interest in it to get the largest price and make just use of the proceeds.

The amendment offered by Mr. Corson was at this point seconded.

Mr. Humphrey: I have not, before, had any opportunity to present to the Convention, the reasons that lead the Committee to recommend the amendment in their report. In the first place, they found in the Constitution, restrictions and safeguards thrown around the lands that the state then possessed or was likely to possess. Following in the spirit of the Constitution and the Enabling Act, the Committee felt that they should provide the same restrictions for these lands. The intention of the report is to protect the lands coming into possession of the State from any possible chance of slipping away from the people. It is well known in the history of states, and the state no further east of us than Iowa, when they had like us, donations of land, that they were careless in their legislation and before they were aware of their folly and turned to see where they were, they were gone. As the Committee understood this, and as I now understand it, the result of these words in the Eighth Section to simply throw around these other lands the restrictions as to appraisal and approval of sale. Further than that, as we understand, and as we find in the Omnibus Bill, other lands than those in Section XVII were donated to the State, including large lands for the penitentiary and such other institutions that are other than educational lands. The clause was to protect the people, not to force the burden upon them to build the capitol by taxation. We are not likely to be called upon to build a capitol for South Dakota for five years, judging by the innumerable contestants. This next year they will vote for temporary location of the capital, then after that the two largest places will vote. We will not see this election contest settled inside of five years. It is a fair presumption that many of these lands will

be of the value of ten dollars per acre even at that time, and even then you would not have the right to dispose of these lands to build the capitol, but under the Constitution, all that would be necessary would be to submit to the people at the next election, and if they desire to sell the lands for less money at that time to build the capitol it will be within their power to do so. It seems to your Committee that we should assist in putting these restrictions and safeguards around these lands till after that time.

Mr. Davies: I would ask if the words "educational and charitable" would not cover the penitentiary lands and other lands referred to by the gentleman from Faulk? The question in my mind is whether that clause did not cover all the lands.

Mr. Humphrey: I would say that lands donated for educational and charitable institutions are generally spoken of as "school lands", "Agricultural College lands".

Mr. Hole: I wish to raise this point. Under the provision of that part of the Constitution as submitted by the Committee, it provides that these lands shall be appraised and sold in a certain way. It provides further that this shall be a permanent fund; that nothing but interest is to be used, as I understand it. The intention of giving 50,000 acres of land to build the capital buildings would hardly be consistent with the general endowment fund. In the proposed part of the Constitution, as submitted, the 50,000 acres will be sold and that money kept as an endowment fund for the capitol, that was not the intention. The intention was to sell the land and build the buildings with it, not to endow the building of the capital.

Again, the fact that we do not include it and put it under the control of the school department, but leave it to the Legislature does not force the Legislature to sell it. I take it that the Legislature will be as careful and as honest and particular about taking care of the funds that is left for the State of South Dakota, as any body of men that can possibly be called together or elected by the people and the mere fact that we leave this to our Legislature who are to use their wisdom in raising the funds to build State buildings, does not force us to sell it at an inadequate price or at inopportune time.

Mr. Young: The gentleman who has just had the floor, I think, is laboring under a false impression as to the amendment desired by the Committee on Education and School Lands. The

amendment desired is incorporated in Section 8, and Section 8 does not provide for building up any permanent fund at all. Section 8 has reference simply to the manner of selling, the Board for executing the sale, the price and the approval of the sale and the appraisal for the sale and nothing at all about the securing of a fund as a permanent fund which is incorporated in Section 7 and further, I think we are not quite as intelligent upon this question as a body as we ought to be because this point has not been brought up.

In the previous section, Section 12, I find that Uncle Sam has been still more generous to us in his endowments for the public building fund. He there contributes another little lot of fifty sections, making eighty two sections in all that this State is endowed with for a public building fund.

This makes a large fund and will make therefore the piling up of the fund more rapid, even if very strict safeguards are thrown around them; and as has already been intimated, our permanent capital site may not be determined on for the next five years. There will be no necessity of any work on a large capitol building, a building that ought to be an ornament to our State, for some time, in any event. I do not think that we ought to be in any unseemly haste towards starting a capitol building here that is to do for all time

Now, Mr. President, in reference to the disposition of these safe-guards, we will have to have some agents for the State for the purpose of disposing of these lands for the application of the funds. It seems to me the Board to whom it is proposed to intrust these lands in the amendment recommended by the Committee on Education and School Lands, is just exactly the Board that is best adapted for this purpose. They are intelligent in these matters because they will have had experience disposing of other lands and caring for all such matters. If our amendment is rejected in regard to this matter it will simply amount, not only to throwing away all of these safe-guards, but to the appointment of another Board, which will be an element of extra expense. As to the point of our lack of authority on the part of the Committee in introducing this amendment at this place you will see by reference to the Omnibus Bill that these endowments, both of them for public buildings, are sandwiched in between the endowments for other purposes. You will see in the latter part of Section 17, that the intention was plainly the same in regard to all lands on the part

of Congress for it says: "All the lands granted by these sections, including the several grants for the several purposes shall be held and appropriated and disposed of exclusively for the purposes herein mentioned, in such manner as the Legislature for the respective States may severally provide" as we have thrown safeguards around these and other separate endowments, and why should we separate this one single endowment out and put it in condition where it will likely be sacrificed. It seems to me a very important subject and is one in which we must make haste slowly.

Mr. Woods: It seems to me that there can be but little question about what our actions can be. There are some very radical amendments for instance,—the report of the Committee calls for striking out a section and the words "and, after the year 1900 two successive Legislatures concur in a law otherwise directing". To strike out these words is not necessary. We have no authority to strike these words out of the Constitution at all; I think that will be apparent to any gentleman of the Convention upon close and careful thought for a few minutes. Then, inserting of the words "and other" in the title is as radical an amendment as striking out the words from Section 5,—something we have no authority to do. I do not remember whether the amendment covers all the proposed amendments in Constitution here or not. The insertion of the words in the fourth subdivision of the report, "and all lands donated for other than educational and charitable purposes" is something we have no right to place in the Constitution as an amendment. It is not necessary, in other words, to carry out the provision of the Omnibus Bill that these amendments be made, therefore we are without authority to make them. It seems to me, these propositions are clear and plain. The argument that it would be desirable to place these amendments in the Constitution is not an argument which reaches the difficulty. It may be desirable to place them in the Constitution, it is not necessary to discuss that; we find ourselves without power to make the proposed amendment. It is not any answer to the argument that it would be wise to place them there within the purview of the law governing the lands donated for capital purposes for the reason sometime in the future it would cost the creation of some Board and thus entail some expenses that might be avoided. We find ourselves not in the possession of that power to pass amendments under the Constitution. This Constitution has been ratified and adopted by the

people and we are authorized by Congress to make certain amendments and changes. These are merely amendments and not changes; now we can enact only such amendments under the provisions of the Omnibus Bill as are necessary to carry into effect the provisions of the Omnibus Bill. I think the gentlemen of the Convention will do well to consider the absence of power in voting the proposed amendment. If we can make these amendments I submit the proposition that we can throw away the Constitution of 1885 and make a new one. If we have sufficient power to make these proposed amendments,—not changes; they are amendments—we have that power—we have the power to make a new Constitution entirely and call it amendments.

Mr. Corson: I desire to call the attention of the Convention to Section 11th to show that it was not the intention of Congress that these capital lands should be included in the educational lands for the purposes of the State. Section 11th of the Omnibus Bill reads, "That all lands herein granted for educational purposes shall be disposed of only at public sale at a price not less than \$10 per acre, the proceeds to constitute a permanent school fund, the interest of which only shall be expended in the support of said school. It will be seen in speaking of educational lands they use the words "that they shall not be sold for less than \$10 per acre", but when they come to speak of the other lands they use no such terms and that makes the proposition of Mr. Woods stronger,—that we are not allowed to make these amendments. But we cannot find any provision in the Omnibus Bill that would warrant us. It seems to me that this Convention ought to favor this second amendment.

Mr. Sherwood: In regard to our powers to insert this amendment proposed, it seems to me this other amendment in striking out the words "unless after the year 1900 two successive Legislatures concur in a law otherwise directing" would be unnecessary to conform with this section of the Omnibus Bill, that "all lands shall be disposed of only at public sale and at a price not less than \$10 per acre,"—I do not hardly see how that amendment can stand and yet the Legislature have power after 1900.

Mr. Humphrey: I wish to call the attention of the Convention to the fact that by inserting the amendment proposed in the 8th Section does not throw around these lands the restrictions contained in many other sections relating to the permanent fund. It is only a restriction in regard to the rights of appraisal and ap-

proval pertaining to the same only. We find that the Constitution has its own safeguards and protects all the lands that the State has cognizance of and when it is claimed that the Legislature will take necessary care of these lands we have only to judge the future by the past and if the Convention which framed this Constitution has that same confidence in the Legislature, why did they place these restrictions upon these lands? The restrictions should be placed in the Constitution. This having been injected as I have said by this bill it will be a portion of our duty to guard and protect it the same as other public lands. In regard to the amendment of the 5th Section, to which your attention has been called by Mr. Sherwood, under the Constitution you would be liable and would violate the provisions of the Omnibus Bill. The Omnibus Bill states that these lands should never be sold for less than \$10 per acre; would you empower the Legislature after a certain year to sell them for less? In regard to the amendment to the title, I would say this, that we depended upon amendment Number Four. If that were enacted, that necessarily amended the title if not concurred in by the Convention that would be stricken out.

Mr. Corson: I move to strike out of the report amendment number four and substitute for Section 8 as reported, the original Section 8 of the Sioux Falls Constitution.

Mr. Dickinson: It seems to me, the question turns on this point: In the first place whether the Committee on Education and School Lands has not the right to extend its jurisdiction so that it will include the capital lands and whether in an article of the Constitution providing for Education and School Lands we can arrange for capital improvements. I have been surprised that the Chairman of the Committee makes this report. He has been one of the greatest sticklers for preserving intact the Sioux Falls Constitution. In this matter he presents a most decided change of front that has been noticed yet on the floor of this Convention

Mr. Humphrey: I would say that I am aware that I am open to that charge. I had myself advised that this matter be turned over to the Schedule Committee but many thought that it would be the proper place for it to be brought before this Convention.

Mr. Woods: I propose as an amendment to the amendment,

that the words "and others" in the first sub-division of the report be stricken out of the report.

Which motion received a second.

Mr. Young: Now we are by our Constitution to throw safeguards and a very many of them around all public lands we had then or that the State had any expectation of. These lands were given to the State by this Enabling Act, and it is only natural to suppose that had the Constitutional Convention of 1885 been aware of the generosity of the general government they would have put in the provision that the Committee proposed.

The President: The question before the Convention is upon the adoption of the report of the Committee on Education and School Lands to which Mr. Corson proposed the following amendment, to strike out of the report, amendment number four, and to substitute Section 8, as reported by the Sioux Falls Constitution in lieu of Section 8, as reported by the Committee. Mr. Woods proposes an amendment to the amendment by striking out the words "and other." As many as are in favor of the amendment proposed by the gentlemen from Pennington say aye; the ayes have it. The motion is now upon the amendment as amended. Mr. Sterling moves that the report of the Committee on Education and School Lands be amended so that Section 9 of Article VIII shall read as follows: "The lands mentioned in this Article may, under such regulations as the Legislature may prescribe, be leased for periods of not more than five years in quantities not exceeding one section to any person or company. All rents shall be payable annually in advance, nor shall any lease be void until it receives the approval of the Governor."

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

Motion received a second.

Mr. Wescott: I move that the motion be laid upon the table.

Which motion received a second and prevailed.

The President; The question is upon the report of the Committee as amended.

Mr. Woods: Before the motion is put, I desire to modify what I have said,—what I have heretofore said, concerning the proposed amendment of Section 5 of Article VIII. I am inclined to think what I said before was said without due consideration.

The question of the adoption of the report of the Committee, upon reaching a vote, was declared by the President to be duly adopted.

The President: Under the Special Order the consideration of the report of the Committee on Name and Boundaries will be the next order of business.

The Clerk reads the report as follows;

(Here insert it.)

The President: The Chairman of the Committee on Name and Boundaries moves the adoption of the report.

The Convention, by a unanimous vote, adopted the report of the Committee on Name and Boundaries.

The President: The second report made by this Committee on Seat of Government, is now before the Convention.

Clerk reads the report as heretofore made:

(Here insert it.)

The Convention, by unanimous vote adopted the report of the Committee on Name and Boundaries, the second sub-division, Seat of Government.

The President: That finishes the Special Order. What is the further pleasure of the Convention?

Mr. Clough: At the request of the Chief Clerk, I introduce this resolution:

WHEREAS, in the records of this Convention the words "Chief Clerk" and "Secretary" are used interchangeably,

RESOLVED, that when so used, that they shall be deemed to pertain to the same person and office,—that of Chief Clerk.

The President: The resolution will be referred to the Committee on Rules.

Mr. Spooner: In order to facilitate business it has been suggested that we have a session tomorrow morning. I move that the rules be suspended and that when we adjourn it will be until 9 o'clock tomorrow morning.

Mr. Davies: Have we not already said we would have a session this evening?

The President: It is moved that the rules be suspended and when we adjourn, it be until tomorrow morning at 9 o'clock.

This motion prevailed.

Mr. Clough: I move that we instruct the Committee on Schedule to bring us a report.

Mr. Jolley: I move an amendment,—that the gentleman from Codrington have a club and be instructed to make the Committee bring it.

Mr. Humphrey: This is near the close of our session; we are anxious to expedite the work,—the work that is left,—the principle part of which pertains to the Committee on Schedule. I renew the motion of the gentleman from Codrington that they be instructed to report tomorrow morning at 9 o'clock.

This motion received a second and on a division of the House prevailed by a vote of 31 ayes and 26 noes.

Mr. Humphrey: I move you the report of the Committee on Schedule be made a special order tomorrow morning at 9 o'clock.

Mr. Jolley: That is pretty good,—making a special order of something you are not in possession of.

Mr. Willis: I second the motion that we make it a special order.

Mr. Corson: There are matters in that report that cannot be inserted until this Committee from Bismarck reports.

Mr. Hole: There has been a special call for the report of the Committee on Schedule and Ordinance. I will explain that the Committee has been at work pretty nearly night and day. From the fact that they have to take up the work after these Committees have reported. We do not want to report, and you do not want any report that is not right. We expect to work all night at that and get it here tomorrow morning. I think it is unfair and uncourteous to pass this kind of a resolution at this time. You know naturally as well as you want to know, that this Committee want to report just as quick as they can. We are going to report tomorrow morning if possible, and if it is not possible it will not be here. You do not want a faulty report. This question referred to the Judiciary Committee two weeks ago that has just come in from the Committee. We had to work after all these Committees came in. I think you will find that you have been just a little bit hasty in this matter. This Committee wants to report and get away just as badly as any gentleman in this Convention. This Committee has worked more hours than any other Committee in this Convention. It strikes me just a little bit previous to make this kind of a motion.

The President: The motion before this Convention is that the report of the Schedule Committee be made a special order

for tomorrow morning at nine o'clock. I will say that the Committee on Schedule have two reports in and the Convention has the right to make them the special order for tomorrow morning at 9 o'clock.

The motion prevailed.

Mr. Fellows: I move the reconsideration of the motion ordering the Committee to report tomorrow morning at 9 o'clock.

This motion prevailed; the motion was reconsidered.

The President: The question before the Convention is, shall the Committee on Schedule and Ordinance be instructed to report tomorrow morning at 9 o'clock.

Mr. Clough: After talking with the Committee I think we understand it a little better. I will make another motion, that the Committee on Schedule be requested to report next Thursday afternoon. I make that as an amendment that they be requested to report next Thursday afternoon. These gentlemen claim that they cannot report until the Committee get back from Bismarck. I would like to have these Bismarck men get home next Thursday.

Mr. Hole: I would say that we want to report before that time. We expect to report tomorrow morning; we expect to make a partial report.

The President: The question is upon the amendment of the gentleman from Codington, that it be made a special order for next Thursday.

Mr. Willis: I move to lay the amendment on the table.

Which motion received a second and duly prevailed.

The President: The question before the Convention now is, shall the Committee on Schedule and Ordinance be instructed to report tomorrow morning at 9 o'clock.

Mr. Humphrey: I wish to ask a question. I am under the impression that our duty is simply to incorporate the agreement reached by the gentlemen of the Commission and if so, what have the Schedule Committee got to do with it?

Mr. Jolley: It is by Ordinance.

Mr. Hartley: I understand we have nothing to do with the report from Bismarck; it is for this Convention to put it through. It has never been referred to our Committee. We can report tomorrow morning.

The President: The question is, shall the Committee on Schedule be requested to report tomorrow morning.

The motion reaching a vote, the President declared the motion lost.

On motion the Committee adjourned until tomorrow morning at 9 o'clock, July 25th, 1889.

