

### THIRTY-FIRST DAY.

August 3d, 1889.

Convention called to order at nine o'clock A. M., by the President.

Prayer was offered by the Chaplain.

The President of the Convention: Reading of the Journal of yesterday.

The Clerk proceeded to read the Journal.

Mr. Sterling, of Spink: Mr. President, I move that the further reading of the Journal be dispensed with.

The President of the Convention: If there is no objection, it will be so ordered.

Mr. Hole, of Beadle: Mr. President, we wish to report back the part of the report made by the Commission sent to North Dakota which was referred to us on yesterday, and in reporting this back I would move the suspension of the rule that requires it to be laid over for one day, and move, further, the adoption of this report, Section 23 of our Schedule.

The President of the Convention: The Secretary will read the Section 23.

The Secretary read the report of the Schedule Committee.

Mr. Hole, of Beadle: Mr. President; as I understand it, we have no power whatever to change this in any particular whatever, and I move that the rules be suspended and the report of the Committee on Schedule be adopted.

A Delegate: I second it.

Mr. Humphrey, of Faulk: Mr. President, in view of the fact that it is not within our power to reject this part of the agreement, I am in favor of the adoption of the language of the Omnibus Bill, and I would move you to amend the report by using the word "incorporating" instead of "adopting".

The President of the Convention: As many as are of the opinion that the rules be suspended, say aye; those opposed, no. The ayes have it and the rules are suspended. The question now recurs upon the amendment of the gentleman from Faulk.

Mr. Price of Hyde: Mr. President; I desire to state, if I understand the report which has just been read, it refers to the books, records and archives of the Territory. I understand the gentleman from Faulk to say that it is obligatory upon this Convention to adopt this; that it has no power to change it. I don't know that that is true. The Commission have recommended that a certain article be adopted and incorporated in the Constitution. That, I understand, is what has been read. Of course they can change it if they want to. There is no necessity of it.

Mr. Humphrey, of Faulk: Mr. President; as I understand it, property is assets, and I can't conceive that there is any power in the Convention to go behind the report of this Committee. I understand that I am in favor of its incorporation, but I am only in favor of using the word "incorporating" instead of adopting."

The President of the Convention: The question is upon the amendment. As many as are in favor of the adoption of the amendment, say aye; those opposed, no. The Chair is in doubt. Those in favor of the amendment, rise and stand and be counted. Those of the contrary opinion, rise and stand and be counted. The amendment is lost. The question recurs upon the adoption of the report of the Committee. As many as are in favor of the adoption of the report, will say aye; those opposed, no. The ayes have it and the report is adopted.

Mr. Hole, of Beadle: Mr. President; I would move you that this report, as now submitted and adopted section by section, be adopted as a whole.

A Delegate: I second the motion.

Mr. Price, of Hyde: Mr. President, do I understand that the article reported by the Commission has been adopted—

The President of the Convention: The Chairman of the Committee on Schedule now moves that the report of the Committee on Schedule, as it has been reported and adopted section by section by the Convention, now be adopted as a whole. Are you ready for the question?

Mr. Hole, of Beadle: Mr. President; in Section 7 there was a provision adopting the former Constitution, so far as election

purposes is concerned, as a part of the Schedule, and making that the rule. Now, by the amendment of last night it is made contradictory, and I would make a motion to reconsider Section 7, with the purpose of striking it out.

The President of the Convention: It is moved that the adoption of Section 7 be reconsidered.

Mr. Hole, of Beadle: If there is any objection, I will let it stand as it is, and ask for the adoption of the report of the Committee on Schedule, as a whole.

A Delegate: Well, what's the use of—

Mr. Hole, of Beadle: I will withdraw it.

The President of the Convention: The question is upon the adoption of the report of the Committee on Schedule, as a whole. Is the Convention ready for the question? As many as are of the opinion that the report be adopted say aye; opposed no. The motion is carried and the report of the Committee on Schedule is carried and the report of the Committee on Schedule is hereby adopted as a whole.

Mr. Sherwood, of Clark: Mr. President, I send up the report of the Committee on State, County and Municipal Indebtedness and move that the report be adopted.

A Delegate: I second the motion.

A Voice: Well, I'd like to hear the report read.

The report of the Committee was read by the Clerk.

Mr. Williams (of Bon Homme) called to the chair by the President.

Mr. Edgerton, of Davison: I would like to ask the judgment of the gentleman as to what the debt would amount to provided the Legislature issued bonds to the amount contemplated by this section.

Mr. Sherwood: It would be impossible to say what the exact debt would be. We have the figures to submit at \$740,700.00 and \$6,500.00 in addition to that. We desire to say further that there are two or three items that are very uncertain, such as running the State from now on which can not be exactly fixed upon.

Mr. Edgerton of Davison: It is with some reluctance that I am constrained to oppose the report of the Committee. Mr. President, I do not think at this time in the history of this commonwealth we are prepared to give the Legislature the power to run us in debt \$500,000 more than \$750,000 we are compelled to as-

---

sume under the Omnibus Bill by the report of the Committee. I know gentlemen may tell me that it is only a power that will not be exercised. I think the experience of every man in this Convention will bear me out that the Legislature in all human probability will run us in debt to the limit allowed by the Constitution. In other words that the State of South Dakota will be in debt the \$750,000 that we are compelled to assume under the Omnibus Bill and also \$500,000 that we are allowed by the report. I want to call the attention of the Convention to certain provisions in our Constitution in reference to the indebtedness referred to. Article XI, Revenue and Finance, Section 1: "The Legislature shall provide for an annual tax sufficient to defray the estimated ordinary expenses for each year; not to exceed at any one year two mills on the dollar of the assessed valuation of all taxable property in the State, to be ascertained by the last assessment made for State and county purposes. And whenever it shall appear that such ordinary expenses shall exceed the income of the State of such year, the Legislature shall provide for levying a tax for the ensuing year sufficient with other resources of income to pay the deficiency of the preceding year, together with the estimated expenses of such ensuing year." It is the following part of the section particularly I invite the attention of the Convention to. "And for the purpose of paying the public debt the legislature shall provide for levying a tax annually, sufficient to pay the annual interest and the principal of such debt within ten years from the final passage of the law creating the debt, provided that the annual tax for the payment of the interest and principal of the public debt shall not exceed in any one year two mills on each dollar of the assessed valuation of all taxable property in the State as ascertained by the last assessment made for State and county purposes." That is, in other words, we now propose to put it in the power of the Legislature to increase the debt over \$750,000, \$500,000 which will make the total debt \$1,250,000. One-tenth of that amount is to be paid annually; that is in addition to the two mill tax that we pay for the ordinary expenses of the government we must pay an additional two mill tax or sufficient thereof to meet the interest and one-tenth of the principal. In other words that we must pay \$125,000 of the principal together with the interest annually. If any gentleman upon this floor can see the immediate necessity of granting this power to

the Legislature I would like to hear about it. In the first place you may say it is necessary for the erection of a public building. No man will claim that there is any necessity for any expensive public buildings for the next three years. However, in all human probability the capitol will not be permanently located for the next three years. I shall be the last one to oppose any reasonable appropriation to build a suitable and proper capitol building at the seat of government wherever the people of South Dakota may locate it. But at present I do not see the necessity for this extraordinary power. In the next place our Constitution is so easily amended ineffect, I am of the opinion it is one of the defects of that Constitution that it may be so easily amended. It is only necessary when an extraordinary expense is to be rendered to submit the proposition to the people that the people may ratify it. If this limitation is placed at \$850,000, that is \$100,000 over and above the \$750,000 that we are compelled to pay by the Omnibus Bill by the report of the Committee. If we need more than the \$100,000 submit the proposition to the people and let the people determine whether we need the additional amount to the amount of \$100,000 or \$200,000 or \$300,000 over and above that amount.

The State starts in with an extraordinary debt for a new State; starts in with a fixed debt that it is impossible for us to evade, of \$750,000. Now we are asked to give the Legislature the extraordinary power that exists in but few of the States, that of running the State in debt for another \$500,000 over and above the \$750,000. I think I state it advisedly when I say this is an extraordinary power. There are but few states that give the power to the Legislature to do as recommended. I think many of the States limited it to \$50,000 or \$100,000 and went into the sisterhood practically out of debt. Now, by this report we are called upon to ratify an indebtedness of \$750,000 back of us and fix a debt accumulating. Let me take this opportunity to say that the Committee who went to North Dakota secured for us a report of settlement that is not only just but eminently fair and very satisfactory. I say, while I assume that that is fixed by the report of the Committee and the Omnibus Bill, let us go cautiously when we attempt to saddle upon the people a debt, unless it seems absolutely necessary, without first submitting it to vote of the people. My own opinion is that \$100,000 is amply sufficient to meet all the pressing wants that we may be called upon to meet for the next three years until the

permanent capital shall be fixed; unless we submit the proposition first to the people.

For this annual revenue you may count upon two mills tax which is estimated here to be about \$248,000 per annum. That may be disbursed because being an annual revenue will require no extraordinary powers. We have heard the statement advanced, this is based upon the history of the past largely; that is estimating the assessed valuation of Dakota to be \$100,000,000. That two mill tax that is allowed for the ordinary expenses of the government there would be a revenue of \$200,000., from the railroads \$33,000., and from other sources \$15,000, making an annual revenue of the State, as near as we can approximate it, \$248,000. That is not within the limitations of the Constitution because that is the ordinary annual revenue of the State government that can be dispensed by the Legislature. The expenditures, so far as I have been able to ascertain them, I will say this is a table that was prepared with some care by Mr. Ward, a citizen of this city, formerly auditor of this State, for the maintenance of State institutions, \$223,905. and for standing appropriations necessary to run that State government, \$100,000. He estimates the expenses of the first State Legislature at \$90,000; total expenses, \$448,905; consequently it will be seen by any person that the necessary and absolute expenses of the government for the next two or three years will be very large unless this is anticipated, should we give the Legislature power to borrow money for the annual expenses of the government. This is an extraordinary power granted to them under the report of the Committee. It is unnecessary and if you do that, unless it changes the provisions requiring one-tenth of the principal to be paid annually, this certainly is unnecessary. Taking either view of it in my opinion at this time it is uncalled for. If we are called upon at any time to meet extraordinary expenses, let us submit the proposition to the people and if they believe that such extraordinary expenses are warranted, the people of South Dakota will immediately grant the power; if they believe it is unwarranted then of course there is no necessity for having this in the Constitution. Therefore, for these reasons, I am compelled to vote against the adoption of the report of the Committee. I do it, as I said in the first instance, with great reluctance.

Mr. Boucher: Do you believe that this Convention has the

right to raise revenue on the State indebtedness at all except so far as it is held by the Omnibus Bill?

Mr. Edgerton of Davison: I think, to state it accurately, we are acting under the Omnibus Bill. That is a limitation of our powers. The Omnibus Bill provides absolutely that we must assume our proportion of the Territorial debt and that proportion as adjusted by the Joint Commission. It says still further than that that we shall have the power to make all necessary amendments of the Constitution of 1885 to carry out the express provisions of the Omnibus Bill and the Omnibus Bill provides that we must assume \$750,000 of the Territorial debt. The Omnibus bill provides that we shall make our amendments to the Constitution of 1885, that shall be necessary to give full force and effect to this obligation on our part. Consequently my own opinion is, that the power being granted to this Convention by the Omnibus Bill we have the right to so adjust the Constitution of 1885 that we provide for the payment of the \$750,000. I do not believe that that means in addition to the original limitation of \$500,000. I believe in a fair construction of the Omnibus Bill. The Constitution provides that we must so increase the limitation as shall absolutely compel the State to pay \$750,000. I know some gentlemen upon this floor believe that our power is to so increase the limitation that the Legislature shall have the power to fix the debt as these gentlemen of the Joint Commission have reported. My own opinion is that we have the right to make the limitation that the Committee have reported. I do not believe that we have the right to exceed the powers of the Omnibus Bill in this Constitution. I believe that they have the report to this Constitution that we must assume \$750,000 and also leave the limitation at \$500,000 as they find it in the Constitution. I believe the Committee have exceeded the powers of this Convention, that is simply a question of business for the future State. Shall we adopt the report of the Committee that will fix the liability of the State at \$750,000 under the Omnibus Bill and leave the original amount \$500,000 as in the Constitution of 1885?

Have we the further power of only increasing the limitation to \$750,000 and leave the power in the Legislature to create any bonded indebtedness whatever without first submitting the proposition to the people? A number of states have that absolute limitation, notably Michigan, that no Legislature can make any

debt without first submitting the proposition to the people; I think it is Michigan, I would not be certain. As I said before, in my opinion there is an intermediate force, that is that we pay this debt that we are compelled to pay under the Omnibus Bill, of \$750,000, and also in addition to that that the Legislature shall have the power over and above the current revenues of the State from year to year, to run us in debt a bonded indebtedness of \$100,000. In other words, it amounts to this proposition: Increase the \$500,000 to \$850,000. As I said before, I believe that the Committee have gone beyond the power given them by the Constitution and by the Omnibus Bill; gone—

Mr. Williamson: I wish to offer the following amendment. I wish to amend the report of the Committee by striking out in Section 2 the figures \$500,000 and inserting in lieu thereof \$850,000, and by striking out the Section 3 entirely of the report of the Committee.

Mr. Lee: I believe, Sir, in letting the majority rule. That is one of the principles I have fixed, heart principles. Consequently I did not see fit to bring in a minority report. But myself and one other member of the Committee voted \$300,000 when they had the report under consideration. I believe in economy, hence I heartily support the motion of my friend on the right. \$500,000 is too large.

Mr. Sherwood: Perhaps it would be proper to tell the reason why the Committee came to the conclusion to which they finally came in regard to this matter. Before we go any further into the details in this discussion I desire to say that the view of the Committee in this matter was this: We held to this position, that the intention of the Constitutional Convention of 1885 was the creating of an indebtedness of \$500,000 and that the intention of the Convention was to ask Congress to enact a law that we should assume and pay a certain proportion of the debt of the Territory of Dakota, as shall be provided. Then our idea is that we are to follow but the law of Congress by assuming whatever debt this Joint Commission settle upon us, yet we are not compelled to amend the Constitution of 1885 by changing the \$500,000 to any greater or less sum in order to conform with the provisions of the Omnibus Bill and assume this debt. That we assume the debt that this Joint Commission has found to be our proportion of the debt of the Territory of Dakota, then we stand in this position that we do



not find it necessary to amend the Constitution of 1885 at all, neither do we find any warrant to amend the Constitution by changing the limit of \$500,000. That was the view of the Committee; none of the Committee considered that we had any right to change Section 2. The Omnibus Bill provided for incurring that portion of the debt of the Territory of Dakota provided for in the Omnibus Bill, to-wit: \$750,000, a certain sum, and having provided for all that we do not see it is abusing the power to change the limit of \$500,000 fixed under the Constitution. I think the question of power will come in here properly and after a careful examination of the subject the Convention shall decide that it was the intention of the Constitutional Convention of 1885 to fix the limited indebtedness at \$500,000, then we are bound by that limited indebtedness and cannot do more or less than accept the indebtedness fixed by the Joint Commission.

In relation to the amendment of the gentleman from Moody.

Mr. Williams: If the gentleman will allow me I will offer another amendment in lieu of the last one made by myself. To insert the figures \$100,000 in lieu of the figures \$500,000 in Section 2. That will be the only change which I wish to offer.

Mr. Wood, of Pennington: I second the amendment.

The Chairman: The question before the Convention is upon the adoption of the report of the gentleman from Clay; to that the gentleman from Moody moves an amendment to insert the figures 100,000 instead of \$500,000 in Section 2.

Mr. Sherwood: I desire to state one or two things; we cannot possibly be admitted into the Union before about the first of November next. As I understand it the Territorial tax is levied, will be levied prior to that time; the tax of the State of South Dakota will have to rely upon a levy prior to the time we become a State; if the gentleman from Davison is correct. He estimates the running expenses of this State to be \$448,905., including the support of the public institutions and our Legislature, etc.

Mr. Edgerton of Davison: It includes all deficits, the interest on the bonded indebtedness, maintainance of the state institutions, the standing appropriation for the expense of running the State government; the expenses of the Legislature; the whole will amount to \$448,900.

Mr. Sherwood: I understand also there are some gentlemen who have figured that the revenue will amount to about \$238,000

Mr. Edgerton, of Davison: In Section 11, the Legislature has power to levy an additional tax of two mills.

Mr. Sherwood: Those extra two mills would not be levied until we become a State and levy a tax regularly as a State. May I ask you this question? The two mills,—assuming we are limited to two mills,—the present levy will be made in view of the law in existence. If that be a fact there will be a deficit of over \$100,000. As I understand it, if there were a three mill tax levied there would be still a deficit in the running expenses of the State of over \$100,000.

Mr. Edgerton, of Davison: The limitation in Article XI for our expenses of State government an additional two mills may be levied for payment of interest upon the indebtedness, which would really make four mills.

Mr. Sherwood: I am now speaking of our revenue received as a Territory and speaking regarding this revenue, and I say, that a three mill tax levied on the estimate of the gentleman from Davison that there would still be a deficit. I desire the Convention to think of this matter carefully; I desire to say also, I am very much opposed to making this \$500,000 myself. I would have preferred to make it \$100,000 of \$150,000 after carefully examining the amount of expenses that might accrue to the new State; we must have some credit and some latitude to borrow money. I deem this provision of this Constitution a wise one. I desire to say that while there are many States who have a limit from \$50,000 to \$300,000, there are other states which have a limit of \$500,000 or more; I think Kansas has a limit of \$1,000,000.

Mr. Edgerton, of Davison: What limit has Iowa?

Mr. Sherwood: I think it is \$100,000. I may be mistaken, I think it is \$100,000; Minnesota, I think, has \$250,000.

Mr. Van Buskirk: I desire to offer an amendment like this: That the public debt of this State, to be hereafter incurred shall never exceed the sum of \$500,000. and until the present debt of South Dakota, assumed upon the division between North and South Dakota shall have been paid, South Dakota shall not incur further indebtedness exceeding the sum of \$200,000.

Which amendment received a second.

The Chairman: The motion before the Convention is, the adoption of the report of the Committee on State, Municipal, and County Indebtedness. The gentleman from Moody county offers

an amendment and the gentleman from Codrington County offers an amendment to the amendment.

Mr. Jolley: I rise to a point of order; an amendment to an amendment, I do not understand what that means; the amendment is to strike out and insert. Now, if the amendment is to strike out \$500,000 and insert \$100,000 this other amendment is not taken in the place of anything, does not add to anything. It is vague.

Mr. Van Buskirk: I will move this as a substitute for the amendment of the gentleman from Moody county.

Mr. Caldwell: Of course it is evident that the limitation regarding this State indebtedness must be either one of two things; it must mean that the \$500,000 limitation is to include the Territorial indebtedness assumed or it must mean that it is independent of that debt. It seems to me that if it is to be regarded as including that part of the Territorial indebtedness which is to be assumed that it is competent for this Convention, under the limitations which have been placed upon it to increase it to no further sum than simply enough to cover precisely the total amount of the indebtedness assumed. That is to say that if this limitation upon the State indebtedness is to include the Territorial debt that we have the power under the Omnibus Bill and the requirement which is upon us to make our Constitution conform to this limitation that we simply have the power to increase that sum to \$500,000.00, which is just enough, and precisely enough, to cover the debt which we assume. On the other hand if the interpretation is to be that the Territorial debt assumed is independent of and outside of this limitation upon the debt which the State may incur, then we have not a particle of power to change that one nickle because this fact being independent it is not affected a particle by any of the requirement or limitations of the Omnibus Bill. It is my judgment that this limitation upon the power of simply the State indebtedness is totally independent of the requirement requiring the assumption of the Territorial debt. I am lead to this conclusion by the existence of Section 5 of Article XIII.

Mr. Jolley: That is stricken out.

Mr. Caldwell: I am speaking now, of course, of our power under the Omnibus Bill as merely to change the Constitution of 1885. In the Constitution of 1885 appears this Section Five of Article XIII which says "Consent is given that Congress may make such

provision or the payment by this State of the existing indebtedness of the Territory of Dakota as it shall deem just and equitable and this State shall assume and pay so much thereof as this Congress may provide." Now Congress has provided by this Omnibus Bill a method by which a just division to South Dakota of the Territorial debt shall be adjusted; how shall it be assumed; and the steps in execution of this requirement of the Omnibus Bill have been taken. But it is determined that the amount thereof is very much higher than the limitation upon the State; the very fact of the liability, that the debt would thus be larger seems to me to raise the fair presumption that the amount of the Territorial debt was to be regarded as totally outside of the limitation upon the State debt. Now as I say, and the reason why I think that this interpretation, independent of these two propositions may be fairly maintained, is this; that such construction must be put upon the statutes and upon the Constitution as will give effect to the limitations contained therein. If such construction be now put upon this provision of the Constitution of 1885 as shall require that the \$550,000 is to include the Territorial indebtedness, of course the whole thing falls to the ground, and the Constitution by its own provision conflicts with itself. So that, as I say, we must give such interpretation, if it be possible as shall not result in a conflict between the different parts of the same document. Therefore the only interpretation which can be put upon this article in order to avoid this future conflict is to require the two limitations to the two requirements as totally independent of each other; for if it be agreed, or if it may be fairly implied that these two propositions are independent of each other, it must necessarily follow that there is nothing whatever in the Omnibus Bill that has any reference whatever to this limitation of \$500,000; the only thing that there is in the Omnibus Bill in the nature of a requirement is concerning the assumption by this state of its portion of the Territorial debt. There is not in the Omnibus Bill a single line or a single word referring to the amount of independent debt which the State itself may create. Therefore, if it is true that this limitation of \$500,000 is independent of the requirement concerning the assumption of the Territorial debt it is absolutely beyond the power of this Convention to change that sum of \$500,000 one iota, however desirable it might be that there should be a less sum fixed than has already

been fixed. The limitation upon this Convention is, that it shall make such changes in the Constitution of 1885 and only such changes as are to be inferred from the requirements of the Omnibus Bill. Therefore, I shall certainly be opposed to either of these amendments. It seems to me the only possible thing that can be done with reference to the Constitution of 1885 with regard to the amount of public indebtedness is simply to make it beyond peradventure that these two propositions are independent. It seems to me the only thing that this Convention can do is to put in here somewhere a provision that the limitation to \$500,000 is not to be regarded as including the sum which the State must assume in furtherance of the requirements of the Omnibus Bill in taking its share of the Territorial indebtedness.

Mr. Jolley: Why not put an independent section in?

Mr. Caldwell: It absolutely, in my judgment, forbids this Convention from changing a single figure of that \$500,000.

Mr. Boucher, of McPherson: Mr. President; upon reading Section 2 of Article XIII of the Constitution of 1885, I think it is perfectly clear that that \$500,000.00 indebtedness is entirely separate and distinct from the indebtedness which the State would inherit from the Territory. That section is this:

"For the purpose of defraying extraordinary expenses and making public improvements, or to meet casual deficits or failure in revenue, the State may contract debts never to exceed with previous debts in the aggregate \$500,000," so I don't believe there is any question but what those are separate and distinct. It is not a state debt. They assume the payment of the Territorial debt. Now, I am anxious and willing and will be glad to vote for the amendment. I rather like the amendment suggested by the gentleman from Codington county, if I can become satisfied that we have got the right to do it. The question in my mind is whether we have any right to change or limit the State indebtedness for the purposes specified in Section 2 of Article XIII, from \$500,000.

Mr. Williamson, of Moody: Mr. President; with reference to this question of previous indebtedness which has been mentioned by the last gentleman upon this floor, it was my opinion before this question was discussed here, that we had no power in the Convention to do anything more than to raise the limit of \$500,000 to such sum as would bear its proportion of the Territorial indebtedness, but as a number of the legal gentlemen, members of this

Convention, seem to be of the opinion that this Convention has power under the Omnibus Bill to change that—to assume that indebtedness and change the \$500,000, either by omitting it altogether, or by leaving it stand altogether, or by multiplying it, I accede to their opinion on that point. It then, as it seems to me, becomes simply a question of policy for this Convention to determine what changes they shall make in this matter. Now, this Convention is obliged to amend Article XIII to provide for this Territorial indebtedness which we have inherited, because the report of the Committee clearly changes and amends the meaning of Article XIII, because they have inserted Section 3, which states specifically that the indebtedness we assume from the Territory of Dakota shall not be included in the indebtedness referred to in Section 2. It certainly appears that their report provides for the material amendment of Article XIII, and that such an amendment, or some amendment of Article XIII is required, in order to bring us within the requirements of the Omnibus Bill and the Constitution.

With reference to this Section 5 of the Constitution as originally adopted, it has been dropped by the report at this time because it is wholly superfluous at this time. It was adopted at that time as a temporary expedient. No machinery had been provided at that time for determining what our share of the Territorial indebtedness would be. This Section 5 is very much like the Schedule and Ordinance in its effect. It was a temporary bridge, or expedient, to go over with at that time.

So far as saying we must now construe Section 5 and Section 2 together, it seems to me that is a little absurd. As I am informed and believe, the amount of Territorial indebtedness which would have been South Dakota's share at that time, was about four hundred thousand dollars; that is, that South Dakota would at that time have been obliged to incur an indebtedness of four hundred thousand dollars, and it appears to me plain, from that fact, that it was the intention of the framers of that Constitution to leave leeway of about one hundred thousand dollars, under this Section, for the State to go on and meet extraordinary expenses that might turn up, and it seems to me we ought to take that as a guide at this time. I would like to call attention to the wording of Section 2. It says:

“For the purpose of defraying extraordinary expenses and making public improvements, or to meet casual deficits or failure in

revenue, the State may contract debts never to exceed, with previous debts, in the aggregate, \$500,000”.

Suppose we leave out these words “with previous debts”, then it would have read, “the State may contract debts, never to exceed \$500,000”. We have therefore a most complete cut-off of all the indebtedness by the State. It appears to me plain that it was the intention of the Constitution when this Section was drawn, that that was to cover the indebtedness inherited from the Territory as well as that incurred by the State. Otherwise that Convention was guilty of tautology when they put in these words that amount to nothing, “with previous debts”.

Now, inasmuch as this has become a question of policy, I think this Convention may well consider what the people of South Dakota, when they voted upon the adoption of this Constitution, believed that meant. I am not afraid to say that I am anxious in my action here to conform, so far as these Constitutional provisions and the Enabling Act will permit, and to so act and vote as I believe the majority of my constituents would wish to have me vote and act, and I know that my own county—Moody county, which had the honor of casting the largest vote, proportionately, in the Territory, for the Constitution—1059 votes for and two votes against this Constitution last fall—I say that I know that my constituents of Moody county did that more for the purpose of cutting off the chance of further indebtedness than for any other reason. It was because they viewed with dismay the mountain of indebtedness the Territory has been piling up, and it was because they wished to interpose a barrier between the people and further indebtedness, that they voted for the adoption of this Constitution. The people of my county do not believe that public prosperity is promoted by incurring public debts, or that the way to gain prosperity is to go in debt beyond your income and beyond your ability to pay. The board of Commissioners at the last session paid off the last outstanding bond of Moody county. For over ten years there has never been a warrant in that county which has not been paid upon presentation. They have no debts. They have a county jail and a court house. But the people of that county owe, as its share of the Territorial indebtedness, the sum of fifteen thousand dollars, and the people of that county don't want the State to have the opportunity of piling ten thousand dollars more indebtedness upon that county. They don't want any more indebtedness.

They served notice on me when I was elected that they didn't wish this Convention to make any alterations in the Constitution, except such as are provided by the Enabling Act, and specifically referred to this matter of indebtedness; so I have had official notice served on me in that respect. Now, as the gentleman from Davison county has well said, where you grant the opportunity to incur indebtedness to the State, the indebtedness will be almost certain to follow. In entering upon statehood we are obliged to curtail our expensive habits. There is no question about it. We cannot as a State go on in the lavish way in which the affairs of the Territory have been conducted. Our income has been cut down, and for years we will have to live upon a more economical basis than we have been doing. It is hard to abandon an extravagant mode of living and come down to the requirements, but it is absolutely necessary to do it. We are confronted with a reduced income, and if the opportunity is open before us, upon entering upon statehood, to continue for a time lavish expenditures, by incurring further indebtedness, I tell you, gentlemen, we will incur that indebtedness. The members of the Legislature cannot and will not have the power to stand up against the pressure which will be brought to bear upon them. This thing will be "absolutely necessary" and that thing will be "absolutely necessary", according to the advocates of certain measures. The pressure will be so great that such indebtedness will certainly be incurred. How are we going to meet this extraordinary addition to our expenditures? When an individual has a certain and fixed income, and is in debt to a certain sum, and he finds this income is not sufficient to enable him to live in the manner in which he is accustomed to live, and to pay interest upon his debts, is it a matter of good judgment for that individual to borrow more money to enable him to continue living in the manner in which he has been living, or, to enable him perchance to build an addition to his house? Is that a matter of good policy for an individual? And isn't the same principle which would apply to the individual to apply to us as a State? It seems to me, in entering upon statehood, that if there is any virtue in the Constitution it is in its power to limit the Legislature. The most important clauses in this Constitution are those limiting clauses and I certainly think if we have the power to make such an amendment, it is good policy to adopt such an amendment as that proposed here.



Mr. Davies, of Edmunds: Mr. Chairman; we have facing us two propositions, and we can't avoid considering the two;—the Omnibus Bill and this \$500,000 limitation. And I think I see the way out of this through a modification of the amendment made by the gentleman from Codington. It is no time in our proceedings to offer an amendment or a substitute, or I would offer it, so I will talk on the amendment. We must meet the requirements of the Omnibus Bill and assume our proportion of the Territorial indebtedness. That is a fixed fact; no one of us wishes to dodge that issue. Again, we have right here a Constitution which, as the gentleman says, we have inherited as a State. We are also doomed to inherit this Section 2 of Article XIII unless we assume we have the authority here to amend this Constitution. Now, then, how will we get out of this predicament, I say we will get out of it on the same principle that we have been getting out of these other predicaments. What is that? Do as little as we can do in the way of modifications to get out of this predicament, and no more. Now, I think there is \$200,000 that the last amendment covered. I should rather have it \$100,000, but my idea is this: Can't this be so modified that the sum \$500,000 will remain as it is in the Constitution, but instead of saying \$200,000, make it \$100,000 of \$200,000, but in such a way that the limit of \$500,000 will always stand. To illustrate, the amendment now says \$200,000; we have \$750,000 indebtedness; that makes \$950,000. After we pay \$900,000 of this debt, how much can we assume? Just \$200,000. We will still have \$50,000. My idea is this; to so modify it that after we pay—say we pay \$600,000 out of this \$950,000, we have a debt of \$350,000 left, but still, let us make this amendment so self-acting that at that time we can go into debt \$150,000 more, or, make it \$500,000. The most we can raise by debt is \$100,000 until such a time that the balance of the debt unpaid and the amount assumed will not exceed \$500,000. I think the gentleman from Davison, our honorable President, intended that that \$100,000 should be the limit beyond which we could not go until the time when that and the balance unpaid should not exceed \$500,000. I would like to ask the gentleman from Codington this question; whether you could not so modify your amendment that after we pay so much of the Territorial indebtedness—suppose we pay so as to reduce it to \$350,000; then we could assume \$150,000, so as to come up to this \$500,000

limit; so that at any time in the future we can go from \$100,000 to such a—

Mr. Van Buskirk, of Codington: There is no difficulty in getting that into shape, so it can be done. I drew this somewhat hurriedly.

Mr. Davies, of Edmunds: I would like you would draw this amendment.

Mr. Price, of Hyde: Mr. President; I have never been accused of being a very able financier, except perhaps in disbursing of the funds which came into my hands, but I want to say to this Convention that I am in favor "of the old flag and an appropriation", and am therefore in favor of adopting the report of the Committee. There would be a great deal of force in the argument of the gentleman from Moody if we were assembled here for the express purpose of framing a Constitution for Moody county, but we are here acting for the proposed new State, and the gentleman must remember that Moody county forms but a small portion of that State, and he himself is a very small portion of that county! Now then, I apprehend from what has been said in opposition to this Article as presented by the Committee, that gentlemen are ready to vote for it, could they convince themselves that we had a right to do it. In other words, they seem to think that it would be an infringement upon the provisions of the Omnibus Bill, and then some of them go so far as to state that it would be in direct opposition to the Constitution as adopted by the Convention of 1885. Now, gentlemen, I have great respect for the Constitution which was adopted in 1885. I have supreme respect for the Omnibus Bill. Why? Because it was passed by an American Congress, which will go into history as admitting three imperial Territories as four States, into the American Union, and it was done by a DEMOCRATIC Congress, and I am somewhat in sympathy, probably, with the Democratic party! But I don't believe that this Omnibus Bill is such a sacred document as men would have you believe. I take the same position that I did upon the assembling of this Convention, that we could entirely ignore the Constitution of 1885, and if it were ratified by the people and the proclamation issued by the President, it would have been the Constitution of the new State of South Dakota, and I apprehend that gentlemen upon the other side will not say that the President of the United States, whom they have passed resolutions endorsing for his friendship to Dakota, would go back

upon the expressed will of the people of the Territory of Dakota, as decided at the ballot-box. He could not, gentlemen; he is such an everlasting friend of this Territory!

It is urged that this amendment ought to prevail because it would be in the interest of economy. I think there is one matter which has been lost sight of by the members of this Convention. Now, then, if we increase this debt, or if we limit it to \$500,000 regardless of the nearly \$800,000 of a debt which is now hanging over us, it is necessitated that this \$500,000 will be squandered; that it is unsafe to trust a representative body of men coming direct from the people, and that they will necessarily squander this \$500,000! Why, gentlemen of the Convention, one party in this Territory has had control of it ever since its very existence and is there anything upon the statute books or the appropriation ledgers to show that they have ever abused the authority? When my Republican friends vote against this proposition, they have got to say that they cannot trust a Republican Legislature, for we ought to see that a Republican Legislature will be elected. I have more confidence in your party, gentlemen, than you have yourselves; I am willing to trust this party—the representatives coming direct from the common people of the land, and I believe they will not squander money entrusted to their care. It is not absolutely necessary that \$500,000 in bonds should be voted by the Legislature, if that money is not necessary to carry on the State, and I don't believe they will do it.

Again, gentlemen, do you know what the actual running expenses of the new State will be? None of us know that, nor can we make a close estimate of it. It has been estimated and stated by gentlemen who have been upon the floor that about \$50,000 would be derived from taxation and other sources, but it must be remembered that that is upon a basis of a two-mills taxation. Do you want to go on record as saddling the full limit of that taxation on a people who are living on wind and water in the summer and snow-balls and icicles made into soup, in the winter? Our crops are poor, our people are paupers, and we are willing to let somebody in the future help pay this two-mill tax, if bonds are necessary and can be raised at four or five per cent.

Mr. Hole of Beadle: I want to ask some business questions, as a business proposition. We will have to take care of the

\$750,000. I would like to ask this Committee, when does the \$750,000 fall due?

Mr. Sherwood, of Clark: I am unable to answer the question.

Mr. Kellam, of Brule: I don't think any gentlemen can give an accurate answer to that question. Some of these bonds are option bonds, and I don't know but all of them, and at this time the bonds are under the option; that is, they may be called at any time.

Mr. Hole, of Beadle: What rate of interest are they now bearing?

Mr. Kellam, of Brule: From four to six per cent. There are but \$710,000 in bonds which South Dakota assumes. The other is an estimate amount. The amount of bonds assumed is \$710,000.

Mr. Hole of Beadle: I had heard it intimated that this \$710,000 was drawing a high rate of interest and there was an option now to pay it off.

Mr. Kellam, of Brule: There are certain six per cent bonds upon which the option has occurred. They may be retired at any time by the payment of them now. There is no question but what bonds could be issued by the new State, bearing not to exceed  $3\frac{1}{2}$  and 4 per cent., and sold, and the money realized upon these bonds used for the retirement of the six per cent. bonds.

Mr. Hole: And if we adopt the report, or the amendment, would we have power then to refund any part of the \$750,000, or would we have to pay it? If we have no power to refund that, it would not be a business policy to so tie ourselves that we could not refund that and float it at a lower rate of interest.

Mr. Clough, of Codington: Here is a question that I want to ask: We have been listening to a great deal of talk about the solemnity of this Constitution. Here is Section 5: Let's read it.

"Consent is given that Congress may make such provision for the payment by this State of the existing indebtedness of the Territory of Dakota as it shall deem just and equitable, and this State shall assume and pay so much thereof as Congress may provide."

Now then, Mr. President, after some weeks and months of careful study of this Constitution, I do not think many of us are willing to assume that it was loosely drawn or that very many chances were taken or much likelihood for hiatus. It seems to me if this

Section 2, that declares that \$500,000 shall be the aggregate debt, had been meant to cover the indebtedness then outstanding against Dakota, that it would have read in this way: "Consent is given that Congress may make such provision for the payment by this State of the existing indebtedness of the Territory of Dakota as shall be in conformity with Section 2." Now, I do believe that if the \$500,000 had been meant to cover the then indebtedness that it would have so read—as I have read it—"in conformity with Section 2"; because this Constitution is most wonderfully overlapped and under-lapped. I do not see, those words being lacking, how it can be otherwise than that the \$500,000 was meant to be outside of the then existing indebtedness. You may reason all the way along through the line of analogies, and they have provided this and that all the way through the Constitution. It does not say "in conformity with Section 2", but it does say "Congress may make provision",—and then it sticks on the other.

Mr. Caldwell, of Minnehaha: Mr. President; the point made by the gentleman from Beadle it seems to me ought to satisfy this Convention that it not only has not the power to change the sum of \$500,000, but that it would be very bad business policy for it to make any change in such amount.

Now, as has been stated by the Chairman of the Committee that went to Bismarck, there are considerable amounts of this \$710,000 bonds, which are running at a higher rate of interest than it would be possible for the State of South Dakota to secure, but when the State of South Dakota, if it shall have the power to do so, undertakes to declare its bonds open—these high rate bonds—and undertake to issue new bonds at a lower rate of interest, in their stead, it transfers the amount of that other indebtedness from the Territorial indebtedness inherited, over to actual State indebtedness directly assumed. Now, if the limitation be put upon the State to such an extent that it shall have only a leeway of \$100,000 it can't then possibly avail itself of the opportunity which would offer for securing of a lower rate of interest with the \$500,000 limitation upon the State indebtedness, pure and simple. The State will have power to take up Territorial bonds and issue a lower rate of interest bonds, for the same amount; and so, for this convention to reduce the limitation of the pure and simple State indebtedness to a sum less than \$500,000, would be merely crippling the State and preventing it from availing

itself of the advantage it would otherwise have,—not being able to trade off Territorial high-rate bonds for State low-rate bonds. So it seems to me that, whether this question be looked at from the standpoint of the power which this Convention possesses under the Enabling Act, or whether it be looked at from the point of what is best interest of the State, unquestionably that that limitation of \$500,000 should remain precisely as it is.

Mr. Hole, of Beadle: Mr. President; that my position may not be misunderstood, I wish to say that I am not one of those who wish to increase the indebtedness. I think the intention of the framers of the Constitution of 1885 was that the indebtedness, which should be found due from the Territory, was to be taken from the \$500,000, and that the balance of it should be the lee-way and my position today is that we should approximate that as nearly as possible. Our indebtedness today is away beyond the amount of that indebtedness the Omnibus Bill provides we shall pay, and that is in the neighborhood of \$750,000. Now the indebtedness which we will start in with is just as much covered by the Omnibus Bill as the \$750,000. We have exceeded that \$500,000. Let us keep inviolate the Constitution as far as the \$500,000 is concerned, but make it impossible for us to use any of that \$500,000 until this other has been either converted into State debt or paid. Now, I think it is proper to convert as much of the \$750,000 as possible under the \$500,000 limit, into a State debt at a lower rate of interest, thereby making from \$15,000 to \$18,000 a year. That is a business proposition, coming to us as business men; and that this may be very thoroughly studied and canvassed, I would think best to refer it back to the Committee. The question, and the report as adopted here, will effect the negotiability of these bonds, and I think that that question should be considered by the Committee—and so report—to give such power to do this, and so that there will be no question about the bonds when issued and that they can be floated at the lowest rate.

And I move you that this matter be referred back to the Committee, with the view of shaping it up to meet the desires of the Convention that have been expressed here.

Mr. Price, of Hyde: Mr. Hole, do you think this affects the negotiability of those bonds if it is submitted to the people and ratified by the people, and we are admitted as a State in the Union, under it?

Mr. Hole, of Beadle: I want this Constitution to be so plain that they can make it as State debt and get a lower rate of interest.

Mr. Corson, of Lawrence: Mr. President; I rise to make a suggestion in regard to this matter, which has occurred to me from reading Section 3, as to the construction that has been put upon this matter of \$500,000.

The language of Section 2 is: "The State may contract debts never to exceed with previous debts in the aggregate \$500,000". Previous debts of what? Of the Territory of Dakota, or of the State? It seems to me Section 3 throws some light upon this Section:

"The debt of any county, city, town, school district, or other subdivision, shall never exceed 5 per centum upon the assessed value of the taxable property therein."

Now mark;

"In estimating the amount of indebtedness which a municipality or subdivision may incur, the amount of indebtedness contracted prior to the adoption of this Constitution shall be included."

It would seem by the care they have taken in Section 3 that they intended by Section 2 to only include the indebtedness of the State, which the State might contract after it became a State.

But I rise more particularly at this time to second the motion of the gentleman from Beadle, for this reason: I was informed a few days ago by the Treasurer, that we have quite a large amount of bonds—\$150,000. I think—that are drawing, I believe, 6 per cent. now, but the parties who hold the bonds won't take 3 ½ per cent. Yet if he had the power, he could issue refunding bonds at a lower rate of interest, negotiate them in New York, and use that money to take up the old bonds. It seems to me that this Convention ought to devise some way by which this \$750,000 indebtedness, at all events, can be refunded from time to time. I do not believe it is policy for us to attempt to pay it off, and it looks to me, upon reading the sections of this Article this morning, as though it will be necessary to amend that before long, because I don't believe it would be best for us to pay off that indebtedness in the next ten years. It would be an injustice to our pioneers to ask them to pay off all that indebtedness and leave it to all subsequent generation not to pay a dollar. It is not fair or just. All we ought to be asked for the next twenty-five or fifty years to come, is the payment of the interest. I am of the opinion that before long we will find it necessary to amend that Section of the

Constitution, and I think it ought to be provided for at the very next session of the Legislature, striking out that section requiring us to pay one-tenth of the principal, as well as the interest. Provide for the interest, but allow the principal to remain. But if we can make some provision at this time by which the Treasurer can refund these bonds, it seems to me a business proposition and policy to do so.

And, while I have great confidence in the Committee, I would move as an amendment to the motion of the gentleman from Beadle, that the gentleman from Beadle and the President of this Convention be added to the Committee for the purpose of devising some way by which we can from time to time refund the \$750,000 provided for in the Constitution now—refund it by issuing other bonds and selling them in the market and getting the money with which to redeem these option bonds, and, as it is a very important matter, I think we ought not to hurry over it too much. If we can provide for the funding of this \$750,000 without providing for this \$500,000 limitation, I should be in favor of reducing the amount to \$100,000 or \$150,000. I think our Constitution is so easily amended that it will only take two years at the farthest to provide for an indebtedness of that kind; and therefore I would be in favor of limiting it, if it can be done at this time; but at the same time I want to be very careful that we provide for the refunding of this \$750,000, so that there can be no possible question about that. We know how careful capital will be, and especially where they advance money upon bonds at a low rate of interest. They want to feel perfectly secure and they want long-time bonds too. Now then, if that can be so arranged in our Constitution to cover our refunding, then I should most certainly be in favor of reducing the amount of indebtedness which the State can incur in the future to as low an amount as has been stated—\$100,000 or \$150,000.

I therefore urge this matter be referred and that these two gentlemen be added to the Committee, to assist them in preparing some scheme by which this \$750,000 can be taken care of.

Mr. Wood, of Pennington: Mr. President; we have got to dispose of this matter and we ought to do it now. Our time is very short. The position of the gentleman from Davison is unquestionably correct, to-wit: The Omnibus Bill, by reason of the size of the debt we must assume, rendering it necessary, by



that fact, that we must make such amendment as the exigencies of the case requires. I agree with that completely. The amendment is simply increasing the \$500,000 to \$850,000, in effect, but it don't cut off or abridge the power to place that debt in any form which the Legislature may desire, to-wit: Refund; issue new bonds; take up the old ones; as the proposition stands under the amendment. Now, if that is not the case, I surely don't understand anything about the meaning of words. They can refund and take up that indebtedness if they shall desire to. The debt is provided for and the refunding is provided for. A re-reference can answer no useful purpose, and I am sure we have consumed sufficient time here.

Now, with reference to the adoption of the amendment of the gentleman from Moody county—the amendment of the gentleman from Codington county is practically the same thing; the amount is a little larger, and that is all—I don't think we can safely put it in that way with any one with a power to create this amount of indebtedness, under the circumstances in which our State will be placed at first. With Iowa it would be different. She has the power to contract \$250,000 indebtedness. Today she owes nothing. Iowa today is not paying one cent on outstanding indebtedness; she has paid off the last dollar. It is not as necessary as it is in the new State. It is not whether we can safely trust the new Legislature. It is a question. Can the State, under these circumstances, resist the temptation successfully to go to the limits of the indebtedness? I don't think it can be done and therefore I think we ought to make the limit as low as possible. Now, having the power to amend the amount of indebtedness, of course the power to amend gives us the right to amend in any manner we may agree upon, and this proposition to increase that to \$800,000, with the limitation of course, as it now stands, seems to me, carries with it the power to refund, and the whole difficulty is overcome and the amendment is proper and properly made when we adopt the report as amended.

Mr. Davies, of Edmunds: Mr. President; I rise to a point of order. There is a motion before the house, and a substitute, neither of which have been disposed of.

Mr. President, pro tem: The proposition is to adopt the report of the Committee; to that the gentleman from Moody moves an amendment by inserting "\$100,000" instead of "\$500,000"; the

gentleman from Codington moves to change that to "\$200,000"; to that the gentleman from Clay raises a point of order, which the Chair sustains; the gentleman from Beadle moves to refer the matter back to the Committee; the gentleman from Lawrence moves as an amendment, that the gentleman from Beadle and the President of the Convention be added to that Committee, which motion has had no second.

The question now recurs upon the motion to refer this back to the Committee. Is the Convention ready for the question?

Mr. Edgerton, of Davison: Mr. President; if I remember the discussion in the early hours of this Convention, in which I argued that we were restricted in our powers by the Omnibus Bill, some very eminent gentlemen took the opposite view. It is with great satisfaction that I find today they are more extreme in their strict construction of the Omnibus Bill than I am.

My eminent friend from Hyde—and no one admires his eloquence more than I do—asks me if I am afraid to trust the Legislature. I answer, with certain limitations, never; but I am less afraid to trust the people of this commonwealth. I can imagine a time next winter when there will be very few Democrats in the Legislature, but there will be a great many of them at the polls! I want them to all have a chance to vote upon that question; I want my friend himself to vote upon that question when the Legislature shall submit the amendment. In all probability he will have no vote in the Legislature, and I want him to have the power to vote upon this question!

He asks me if I am afraid to trust the Legislature. All through this Constitution there are limitations; limitations of the most extraordinary kind. I call the gentleman's attention to the limitations on the Legislature: It has no power to locate or change a county seat—and yet the gentleman asks me if I am afraid to trust the Legislature. It has no power to grant divorces; nor to change the names of persons or places, or to constitute one person the heir-at-law of another; or to regulate county and township affairs; or to incorporate cities, towns and villages, or change or amend the charter of any town, city or village, or to lay out, open, vacate or alter town plats, streets, wards, alleys or public ground; nor to provide for sale or mortgage of real estate belonging to minors or others under disability; nor to authorize persons to keep ferries across streams wholly within the State; nor to remit fines, penalties

or forfeitures; nor to grant to an individual, association or corporation any special or exclusive privilege, immunity or franchise whatever; nor to provide for the management of common schools; nor to create, increase or decrease fees, per-centages or allowances of public officers during the term for which officers are elected or appointed. And yet the gentleman asks me if I am afraid to trust the Legislature!

As I said before and have frequently said, there is probably no other Constitution, with possibly that of the State of Pennsylvania excepted, that is so guarded in its limitations and restrictions of the powers of the Legislature, as the Constitution of South Dakota. And it is because the framers of this chose to restrict the Legislature and to say that they should not exceed the limitations except by submitting the question to the people.

Now, as I said the first time I occupied the floor on this question, if it is necessary to increase that indebtedness, all you have to do is to have the Legislature submit the proposition to the people; if it shall have been found necessary to increase that indebtedness to \$200,000 or \$300,000 or \$500,000, all you have got to do is to have the Legislature, by a bare majority, submit the proposition to the people, and the people, by a bare majority, can increase the State debt.

Now, I will ask my friend from Hyde, if he is afraid to trust the people of this commonwealth upon that most important question?

Mr. Price, of Hyde: No, Sir, I am not afraid to trust the people, and I am not afraid to trust the Legislature either, because its members come direct from the people.

Mr. Edgerton, of Davison: Now, one thing more, outside of this question. So far as the dignity and importance of this Omnibus Bill is concerned, the gentleman and I agree. No man is willing to accord more credit than I to that handful of Democrats, not exceeding twenty in number, who,—when it became inevitable that Benjamin Harrison was to be the President of the United States!—voted in the Senate and the House of Representatives for this Omnibus Bill. It was the unanimous vote of the Republican party in Congress, backed by about twenty Democrats in the House of Representatives! I say this out of no disrespect to the Democratic party, but when it is claimed that we are entitled to admission and that we have gained it solely and exclusively owing

to the magnanimity of the Democratic party, I say we owe it to the twenty Democrats who voted for it in Congress, and to the unanimous vote of the Republicans in Congress. I will make this exception, that the Democratic party of South Dakota, with very few exceptions—here and there one—has been for years the friend of South Dakota—as much as the Republicans; and upon this question we have stood shoulder to shoulder up to the present time.

Mr. Van Buskirk, of Codington: Mr. President; when I drew this amendment and put \$200,000 in there I was not wedded to the sum of \$200,000, but I thought it well to retain \$500,000, so that when we should have disposed of and paid \$710,000, or about \$750,000, then this sum named would stand in the Constitution as adopted in all of its intendments. I should just as soon have it \$100,000 as \$200,000, but I want to retain that \$500,000 in its integrity. I want it so that when these other sums were paid, that this \$500,000 would stand there.

Mr. Davies, of Edmunds: I want to ask if your motion, sent to the table, refers to that fact?

Mr. Van Buskirk, of Codington: It is possible that the suggestion of my friend, Mr. Hole, who has possibly a little more acquaintance with this matter of bonds than I have, is correct. I would prefer that there be no change that there will be no question about the power to refund.

Mr. Wood, of Pennington: I understand that it contains in its provisions, power to refund. I understand that when that is paid off the limit will stand \$100,000; as soon as the debt assumed by the State from the Territory is paid off, the debt will stand \$100,000. In other words, we simply give a lee-way of \$100,000 over the debt assumed.

Mr. Van Buskirk, of Codington: Now, to continue, my idea was, as I said, to retain this \$500,000 provided for here, in its integrity. I do not think it is any violation of the spirit or terms of that to provide the limit; say to limit it to the sum of \$100,000 or \$200,000. When I put the sum of \$200,000 in there I did it for this reason; it occurred to me that South Dakota might desire to build a capitol, or something of that kind, and that \$100,000 would not be enough; but I am willing \$100,000 should go in, and it may be well to add there something to make it un-

questionable that power to refund is given and that the refunding shall not be deemed payment.

I am in favor of its being recommitted here. I think perhaps the Committee now may take it up and handle it more speedily than we can.

Mr. Stoddard, of Brown: Mr. President; is the motion to refer it back to the Committee?

The President, pro tem: Yes, Sir.

Mr. Stoddard, of Brown: Was the amendment of Mr. Corson to add Mr. Hole and the President of this Convention to that Committee, allowed?

The President, pro tem: No, Sir; that motion was not seconded.

Mr. Stoddard, of Brown: Well, I will second that motion; that is, if the President will consent. I will second the motion if the President will agree to serve on that Committee.

Mr. Edgerton, of Davison: I don't think I would agree to serve on that Committee. My convictions are too well settled for that. I think my friend Mr. Price, or the gentleman from Clay, would be better selections. I take knowledge that my convictions are so clear and well settled upon that, that I would be an improper person to sit upon that Committee. I would much prefer that Judge Corson or Judge Price, or, some other gentleman should serve.

Mr. Stoddard, of Brown: If Judge Corson will consent to take his place, I will second the motion.

Mr. Corson, of Lawrence: No, I should rather be excused. I am not a good financier. But some way should be provided to refund this indebtedness.

Mr. Stoddard, of Brown: Well, I am in favor of its being referred back to the Committee, and then they will extend the courtesy to these gentlemen of asking their advice about it. I think it is no more than prudent that we refer this matter back to the Committee now, and for them to perfect their report and bring it in at a later time. We can't get away before Monday, and I would rather go home having this matter as nearly correct as possible, and certainly the gentlemen of this Convention are not unanimously convinced that the report covers the difficulty suggested.

Mr. Jolley, of Clay: Mr. President; in behalf of the Committee that tendered this report, we seriously object in having

to go over this whole matter again. It has been clearly demonstrated that the report of the Committee and the signing of the report of the Committee doesn't bind anyone; after we have agreed to something, then it is discussed here on the floor of the Convention and those men who have signed the report go back on it and vote some other way. If there is anything in the report of this Committee that don't agree with the views of any of the gentlemen, there is certainly a way to amend it and make it satisfactory. This Committee could not agree among themselves; this is a compromise. The Chairman had serious objection to signing such a report as this, but owing to the eloquence of certain gentleman, he finally did so. I represent the same element in the Republican party that my friend from Hyde does in the Democratic party, with this difference; I never have any money of my own to spend; and I also differ from him in this; that no one I ever knew of has ever trusted me to spend any money of theirs! If necessary, let us go into Committee of the Whole, but don't allow the spectacle to again occur in this Convention of having a committee sign a report and then eleven of the twenty-five members go back on it.

(Cries of "Question, question, question".)

The President, pro tem: The question before the house is on the motion of the gentleman from Beadle to refer this back to the Committee. Is the Convention ready for the question?

Mr. Sherwood, of Clark: Mr. President; that Committee cannot possibly agree on any further report. We did the best we could to agree on what we have now got before the Convention; but if it should come back at all, what is the object of referring that portion of the report drafted by the Committee from North Dakota? If it should go back at all, I ask the mover of it to refer only that portion of it to the Committee that has been under discussion here.

Mr. Hole, of Beadle: The only thing I had in my mind was the proper wording of this matter with regard to bonds, so there would be no question as to the negotiation of them.

Mr. Jolley, of Clay. Well, move an amendment to this report.

Mr. Hole, of Beadle: Such things can be done better in Committee, and I think this Convention is ready to adopt the report of this Committee when that is made clear.

Mr. Spooner, of Kingsbury: Mr. President; as a member of

that Committee, I shall oppose the re-referring of this report. All considered it carefully and honestly, and the report was a compromise, and if it is re-referred it will come in the same shape that it did before, and we will have the same ground to go over. Now, I will give you good warrant for that. Not that we wish to make the limit of the indebtedness far above what it should be, but the question of power has come up before this Convention and in our Committee in such a manner that we have been afraid to touch those matters; and now you might as well consider the report here, in Committee of the Whole, if you choose, or, before the Convention; but I shall oppose the referring back to the Committee.

Mr. Dickinson, of Day: There is one thing that has not been directly touched upon, and that is the most important. The financial part is something that has to be carefully drawn, and especially if we propose to refund out indebtedness, it is better to take the advice of men who are dealing in bonds, and to have the proposition put in such terms as in the judgment of such men, the bonds can be safely and easily negotiated. Mr. Hole says, that as one who has dealt extensively in bonds, he would not be willing to take these bonds in the wording this matter is in now. It seems to me it will be better to refer this back, so as to have the wording made so clear that there will be no question as to the negotiability of the bonds. For that reason I am very much in favor of referring it back.

Mr. Willis, of Aurora: Mr. President; I am convinced now, again, that we have reached that point in this discussion—in this desultory discussion—where I am confident—I am confident, (Cries of "Question, question"), being unaffected by this little demonstration around me—that this Convention is ready on this point. I sympathize with that Committee on this little extra work they will have to do, but I sympathize more with this Convention and with the significance of the results to accrue to the people of this Territory, and I say, in this "rattled" condition, we ought to feel ready now to refer this back. (Cries of "question, question, question").

The President, pro tem: The question is upon the motion to refer back to the Committee. As many as are of the opinion that the motion prevail, say aye; opposed, no.

The Chair is unable to decide.

As many as are of the opinion that that motion prevail will rise till you be counted.

The vote stands 30 and 30, and the motion is therefore lost.

Mr. Corson, of Lawrence: Mr. President; I move to postpone further consideration of this matter until two o'clock this afternoon.

A Delegate: I second the motion.

The President, pro tem: It has been moved and seconded that the further consideration of this matter be postponed until two o'clock this afternoon.

Mr. Wood, of Pennington: Mr. President; I am going to insist that that motion do not prevail—

Mr. Van Buskirk, of Codington: Mr. President; I rise to the point of order that this question is not debatable.

The President, pro tem: The Chair will rule that the question in not debatable.

Mr. Wood, of Pennington: Then I simply advise the Convention to vote it down.

The President, pro tem: The question is upon the postponement of the further consideration of this matter until two o'clock.

As many as are of the opinion that the motion prevail, say aye; opposed no.

The noes seem thave it.

(Division called for.)

Those in favor of the motion will rise and stand to be counted.

Thirty-one in favor of the motion and twenty-eight against.

So the motion prevails.

Mr. Sherwood, of Clark: Mr. President; I move we take a recess until two o'clock.

A Delegate: I second the motion.

The President, pro tem: It has been moved and seconded that the Convention do now take a recess until two o'clock.

As many as are of the opinion that the motion prevail, say aye; opposed, no.

The Chair is unable to decide. Those in favor of the motion will rise and stand to be counted.

Mr. Dickinson, of Day: Mr. Chairman; if it be proper, I would like to ask if there is any business we can transact before two o'clock?

The President, pro tem: A vote is being taken.

There are 37 ayes and 23 noes.



So the motion carries and the Convention will take a recess until two o'clock.

## RECESS.

Two o'clock P. M.

The Convention re-assembled with the President in the chair.

Mr. Caldwell, of Minnehaha: Mr. President; I would ask unanimous consent for the introduction of a very important resolution at this time. I will read it myself, because the chirography is a little questionable:

WHEREAS, There are at present outstanding bonds of the Territory of Dakota, aggregating \$107,500, of which \$77,500 bears five per cent interest, and \$30,000 six per cent. interest, which are payable at the option of the Territory after May 1, 1888; and

WHEREAS, The Territorial Treasurer has power under the Territorial law to declare said option; and,

WHEREAS, It is the judgment of said Treasurer that it would be possible under the present favorable condition of the bond market to refund said bonds at a much lower rate of interest; therefore, be it

RESOLVED, By this Convention, that in its judgment, the public welfare would be subserved by such refunding, and that it hereby requests the Territorial Treasurer to take steps looking toward such action; provided, however, that the rate of interest which the refunding bonds shall bear shall not exceed four per cent. per annum, and that any premiums secured upon such bonds should inure to the benefit of the general fund of the Territory.

The President of the Convention: The gentleman asks unanimous consent to consider the resolution, and the Chair hears no objection.

Mr. Caldwell, of Minnehaha: Mr. President; I will say that the Territorial Treasurer feels some little hesitation in declaring this option, under the circumstances that prevail at this time, of the division of the Territory, etc., and this has been prepared with his knowledge and advice, in order that there may be something like a warrant to him for declaring the option, and he says he has not any question but that he can refund these bonds at four per cent. and that such refunding would save the State of South Dakota at least \$25,000 of interest, for the reason that the bond was originally a Territorial bond and the option is declared on its face to be the option of the Territory of Dakota, and there might be a question with the bond purchasers as to whether or not the State of South Dakota could declare an option which it was the province of the Territory of Dakota to declare; and holders

of bonds bearing this rate of six per cent. might stand out and question the option declared by the State of South Dakota.

A Delegate: I second it.

The President of the Convention: Is the Convention ready for the question?

Mr. Dickinson, of Day: Mr. Chairman; I have heard it stated that those bonds could be refunded at 3½ per cent., but we are liable to have the outside limit used instead of the inside—

(Cries of "question, question").

The President of the Convention: As many as are in favor of the adoption of the resolution, say aye; opposed, no.

The ayes have it and the resolution is adopted.

The question now before the Convention is on the adoption of the report of the Committee on State Indebtedness, to which the gentleman from Moody moves an amendment that "500,000" be stricken out and that "100,000" be inserted. If I remember right, that is the condition.

Mr. Jolley, of Clay: Mr. President; the gentleman from Codington has an amendment striking out "100,000" and inserting "200,000".

The President of the Convention: Is the Convention ready for the question on the striking out of the "500,000", as it occurs in the original report of the Committee on State Indebtedness, and inserting the larger sum, "200,000"?

Mr. Neill, of Grant: Mr. President; if I understand the situation of the question, we have just one amendment to the original motion.

The President of the Convention: Two.

Mr. Caldwell, of Minnehaha: I believe the other was declared out of order.

Mr. Williams, of Bon Homme: The amendment by the gentleman from Codington county was declared out of order, so that when we took a recess the question was on the amendment of the gentleman from Moody county, to insert "100,000" instead of "500,000".

The President of the Convention: I understand the condition of things as the gentleman from Clay stated—that the gentleman from Codington offered an amendment or a substitute, changing the whole provision and providing that certain bonds should be taken up and new bonds issued; that someone raised a point o

order and that the Chair decided the point of order well taken; and then, as I understood it, the gentleman from Codrington offered a new amendment to strike out the words or the figures "500,000" and insert the figures "200,000".

Mr. Neill, of Grant: I understood that there was only one amendment before the house.

The President of the Convention: If the Clerk will read the Journal—

Mr. Peck, of Hamlin: Mr. President: I—

Mr. Neill, of Grant: Mr. President, if there is a second amendment before the house, I have nothing to offer.

The President of the Convention: The Clerk tells me that the Journal is not in the room. I rule this, in the absence of the Journal—which should be here, Mr. Clerk, at all times when the Convention is in session—and upon the statement of the gentleman who presided in the Convention at the time, Mr. Williams, that the order was as he states it and that there is but the one amendment before the Convention.

Mr. Neill, of Grant: I wish, Mr. President, to offer this as a substitute:

SEC. 3. That the indebtedness of the State of South Dakota, limited by Section 2, of this Article, shall be in addition to the debt of the Territory of Dakota assumed by and agreed to be paid by South Dakota; provided, that \$350,000 of said indebtedness limited by Section 2 be part of said Territorial indebtedness until the same is fully paid.

Mr. Jolley, of Clay: Does that relate to the same subject matter, Mr. President?

The President of the Convention. I think it is of the same order as that passed upon by Judge Williams before dinner. It was then ruled out of order and I am not disposed to reverse the ruling of the chair.

The question is upon the motion to strike out the figures "500,000" and insert "100,000". All those of the opinion that the motion prevail, say aye; those opposed, no.

The ayes appear to have it. The ayes have it.

(Division called for).

All those in favor of the motion that "500,000" be stricken out and "100,000" inserted, will rise and stand to be counted.

The ayes are 42 and the noes are 15.

So the motion prevails.

The question now recurs upon the adoption of the report of the Committee, as amended.

Mr. Neill, of Grant: Mr. Chairman; I wish to present the amendment I offered before. I think it is in order now, and I will move its adoption.

SEC. 3. That the indebtedness of the State of South Dakota, limited by Section 2, of this Article, shall be in addition to the debt of the Territory of Dakota assumed by and agreed to be paid by South Dakota; provided, that \$350,000 of said indebtedness limited by Section 2 be part of said Territorial indebtedness until the same is fully paid.

Mr. President, I just wish to explain the intent of that amendment. The effect of this amendment will be to make the limit \$150,000. The amendment of the gentleman from Moody makes the limit \$100,000. So far as that is concerned, I care nothing about that; but the point I wish to preserve is this—I don't wish to attack that limiting clause of the Constitution of 1885, making the limit \$500,000. To save attacking that provision of the Constitution of 1885, I make this provision, by authority of the Omnibus Bill in regulating the Territorial indebtedness, and simply reserve \$350,000 out of that \$500,000, to apply on this Territorial indebtedness, and it is to apply on it continuously until all that Territorial indebtedness is paid. So that there is no chance of exceeding this \$150,000 limit at all until that Territorial indebtedness is cleared off. Then of course the \$500,000 limit will be in force and will maintain the integrity of the Constitution of 1885. Our people are economical enough to take fifteen or twenty years before that \$500,000 clause will come into effect. They will pay off that debt, and they are perfectly safe to trust in the future not to incur more of that \$500,000 than is necessary. It obviates the difficulty found in that provision of the Constitution of 1885.

Mr. Humphrey, of Faulk: What part of \$100,000 is \$350,000? That has been changed now by the adoption of the amendment, from \$500,000 to \$100,000. How do you amend it by your resolution?

Mr. Neill, of Grant: Coming in as a substitute to the amendment.

Mr. Van Buskirk, of Codington: Mr. President; I would like to inquire—

The President of the Convention: (Not observing Mr. Van Buskirk).

As many as are in favor of the adoption of the amendment, will say aye—

Mr. Van Buskirk, of Codington: One moment, Mr. President. I just came in, and have not heard the resolution.

Mr. Neill's amendment was read by the Clerk.

Mr. Jolley, of Clay: Mr. President; we certainly can't apply that amendment. It is Section 3, I think, in the report. Now, Section 2 is amended so that \$100,000 is all that is put in there, instead of \$500,000. The amendment says that \$350,000 of that \$100,000 shall be, so and so!

The President of the Convention: As many as are in favor of the adoption of the amendment, will say aye. (No delegate voted in the affirmative.) Those opposed say no. (The delegates voted unanimously against the adoption of the amendment). (Great laughter).

The motion is lost!

The question now recurs upon the adoption of the report of the Committee.

Mr. Neill, of Grant: I would like to hear the report read now, Mr. President.

The President of the Convention: The Clerk will read the report.

(The Clerk announced that the report had been taken by the Committee from his desk.)

Mr. Van Buskirk, of Codington: Then, Mr. President, I would offer as a substitute, to strike out Sections 2 and 3 of the report of the Committee and substitute in place of those two sections the following:

For the purpose of defraying extraordinary expenses and making public improvements, or to meet causal deficits or failure in revenue, the State may contract debts, never to exceed, in the aggregate, five hundred thousand dollars, exclusive of the indebtedness to be assumed by the State of South Dakota upon the division of the Territory of Dakota, and no greater indebtedness shall be incurred except for the purpose of repelling invasion, suppressing insurrection or defending the State or the United States in war; and provision shall be made by law for the payment of the interest annually and the principal when due, by tax levied for the purpose, or from other sources of revenue; which law providing for the payment of such interest and principal by such tax or otherwise shall be irrepealable until such debt is paid; provided, that until the present debt of South Dakota, assumed upon

the division of North and South Dakota, shall have been paid, South Dakota shall not incur any indebtedness in excess of the sum of one hundred and fifty thousand dollars, but the Legislature may refund the indebtedness assumed and to be paid by South Dakota upon such division, and may use any part of the said sum of five hundred thousand dollars in excess of the said sum of one hundred and fifty thousand dollars to refund said indebtedness, and for no other purpose, but such refunding shall not be deemed a payment of such present indebtedness.

The idea of this is, as you will readily see, that in no event can the State of South Dakota become indebted over and above the debt which we have to assume under the Omnibus Bill, \$150,000 added. That is the extent to which it can go, by any possibility. This provision allows the State to refund that debt and to use the sum of \$350,000 of the \$500,000 to refund, but as long as you simply change one obligation for another that is not payment, and it confers upon the Legislature power to refund, at a less rate of interest, if possible; and I offer that as a substitute for the report of the Committee.

The President of the Convention: You have heard the substitute as offered. As many as are in favor of the substitute—

Mr. Caldwell, of Minnehaha: Mr. President; it appears to me that this substitute settles a great many difficulties that have occurred to the members of the Convention. It seems to me to meet the emergency, as it provides for something which the report does not provide for. I have just been talking with the Territorial Treasurer, and he says that is a matter which he feels is of wonderful importance, and if this provides for these difficulties, it is an excellent thing. I will call for the reading of this substitute again. I would like to have it read slower, so that we can take it all in.

The President of the Convention: The Clerk will read it.

(The substitute of Mr. Van Buskirk was read by the Clerk.)

Mr. Jolley, of Clay: Mr. President; I have just been informed by the Territorial Treasurer that \$150,000 will not be sufficient to carry us until February, and \$350,000 will not be enough to amount to anything in the refunding, and his idea is that the \$100,000 ought to be raised to \$250,000 and the \$350,000 lowered to \$250,000.

Mr. Wood, of Pennington: Mr. President; I am opposed to giving this State the right to contract that much indebtedness

over what we assume. There is no necessity for it, and I know by past experiences that the tendency is to run up as far as we can go. Of course as soon as the present debt is paid off they can run it up to half-a-million. There is a constant temptation for all sorts of schemes, for appropriations and the like, and I say keep that indebtedness as low as we can.

The President of the Convention: As many as are in favor of the adoption of the substitute, will say aye; those opposed, no.

The noes appear to have it. The noes have it and the substitute is lost.

The question now recurs upon the adoption of the report of the Committee, as amended.

As many as are of the opinion that the report be adopted, say aye; those opposed, no.

The ayes have it and the report of the Committee, as amended, is adopted.

Mr. Wood, of Pennington: Mr. President; I move that the action of the Convention in adopting the report of the Committee, be reconsidered and that the motion be laid upon the table.

A Delegate: I second the motion.

The President of the Convention: It has been moved that the action of the Convention in adopting the report of the Committee, as amended, be reconsidered and that the motion to reconsider be laid upon the table. Is the Convention ready for the question?

As many as are of opinion that the motion prevail, say aye; those opposed, no.

The ayes appear to have it. The ayes have it.

(Division called for).

Those of the opinion that the motion be tabled rise and stand to be counted.

Those of a contrary opinion, rise and stand to be counted.

The ayes are 30 and the noes 27.

So the motion prevails.

What is the further pleasure of the Convention? I would state for the information of the Convention, that we have now about an hour, if we accept the invitation of the Burlington road to go to Spirit Lake.

I am not advised as to whether this completes the Constitution, so that it can go into the hands of the enrolling Clerk, or not.

Mr. Caldwell, of Minnehaha: Mr. President; I would ask if

the Article reported by the Commission has not been turned over to the Enrolling Committee?

Mr. Hartley, of Hand: I think not.

The President of the Convention: I am informed by the Clerk of the Convention that it has been.

What is the further pleasure of the Convention?

Mr. Humphrey, of Faulk: Mr. President; I send up the report of the Committee on Printing, and I move its adoption.

(The report was read, as follows:)

Sioux Falls, August 3, 1889.

MR. PRESIDENT:—

Your Committee on Printing, having had under consideration the advisability of printing blank certificates of indebtedness, relative to the expenses of this Convention, direct me to report, recommending that this Convention do provide for the printing of one hundred and fifty (150) blank Certificates of Indebtedness, to comply in form to Rule 46, with the addition thereto in the beginning of said for the words, "This is to certify". All of which is respectfully submitted.

H. A. Humphrey,  
Chairman of Committee.

The President of the Convention: The gentleman from Faulk moves the adoption of the report of the Committee on Printing.

As many as are in favor of the adoption of the report, will say aye; those of a contrary opinion, say no. The noes appear to have it; the ayes have it and the report is adopted.

A Delegate: Mr. President; I move we adjourn until two o' clock next Monday.

Mr. Corson, of Lawrence: Mr. President; it seems to me we could adjourn to an hour earlier than two o'clock. Many of us wish to get away on the evening train and an adjournment until that hour may prevent the final adjournment until the next day.

The President of the Convention: I will say, for the information of the Convention, that Mr. Brown informed us here, probably before you all came in, that those who went to Spirit Lake could not be back here until 11:30 o'clock in the forenoon.

Mr. Hole, of Beadle: I suggest that we adjourn until one o'clock, and I make that as a motion.

A Delegate: I second the motion.

The President of the Convention: It has been moved that the Convention do now adjourn until one o'clock Monday afternoon.



---

As many as are of opinion that the motion prevail, say aye; opposed, no.

The ayes have it and the Convention stands adjourned until Monday afternoon next, at one o'clock.

ADJOURNED.