

TWENTY-NINTH DAY.

SIOUX FALLS, Aug. 1, 1889.

2 o'clock P. M.

Prayer by Rev. Burdick.

Journal read and approved.

Mr. Davies moved

That the President appoint a committee of five to secure the publication of the Constitution and Schedule as ordered by the Convention.

Motion carried.

Communication from John J. Cushing, relative to artesian wells,

Received and referred to the Committee on Judiciary.

A communication from J. M. Simmons, relating to name,

Was received and referred to Committee on Name, Boundary and Seat of Government.

On motion of Mr. Jolley,

The Convention took a recess until 8 P. M.

8 o'clock P. M.

The Convention was called to order by the President.

Mr. Edgerton of Yankton offered

The following resolution and moved its adoption.

WHEREAS, Hon. Benjamin Harrison for years has been the earnest friend of Dakota and the advocate of Home Rule in America as well as abroad, and

WHEREAS, He has contributed largely to the division of Dakota and the early admission of four great Territories into the Union of States, therefore, be it

Resolved by the delegates of South Dakota in Constitutional Convention assembled, that the thanks of all sincere and patriotic friends of republican government, and especially those residing in the territories, are due to him for the consistent and unwavering stand he has maintained in favor of those principles for the admission of new states taught by the founders of the republic.

Resolved, That a copy of these resolutions be transmitted

by our presiding officer to the Hon. Benjamin Harrison, President of the United States.

Resolution adopted.

On motion of Mr. Westcott,

It was ordered that when the Convention adjourns it do so to meet at 9 o'clock A. M. to-morrow.

The President announced

The following as the Committee on Printing the Constitution, as ordered at afternoon session, viz:

Mr. Davies of Edmunds, Mr. Stroupe of Brown, Mr. Zitka of BonHomme, Mr. Edgerton of Yankton, Mr. Ringsrud of Union.

SPECIAL ORDER.

Consideration of the report of the Schedule and Ordinance Committee:

On motion of Mr. Hole,

Sections 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 were adopted as reported.

The following communication was read:

HEADQUARTERS DEPARTMENT OF DAKOTA, }
ST. PAUL, MINN., July 25th, 1889. }

To the Presiding Officer of the Constitutional Convention of South Dakota:

SIR: I have the honor, in accordance with instructions received from the War Department, to request, that consideration of the Convention be invited to the proposition, that a clause be inserted in the Constitution of the State of South Dakota, by which jurisdiction shall be reserved to the United States, as provided in Section 8 of Article I of the Constitution, over the Military Reservations of Forts Meade, Randall and Sully, heretofore declared by the President.

Very Respectfully,

Your obedient servant,

THOS. H. RUGER,

Brigadier General,

Commanding.

On motion of Mr. Corson,

Section 18 was amended by adding after subdivision fourth, the following subdivision:

Fifth: That Jurisdiction is ceded to the United States over the military reservations of Fort Meade, Fort Randall, and Fort

Sully, heretofore declared by the President of the United States; provided legal process, civil and criminal, of this State shall extend over such reservations in all cases of which exclusive jurisdiction is not vested in the United States, or of crimes not committed within the limits of such reservations.

On motion of Mr. Hole,
Section 18 was adopted as amended.

Moved by Mr. Hole,
To adopt Section 19.

Mr. Williams offered the following amendment:

Amend Section 19 of the report of the Committee on Schedule and Ordinance, by striking out the dates 1892 and 1894 where they occur in said section, and inserting in lieu thereof the date 1891.

On motion of Mr. Price,

Further consideration of the amendment was postponed until tomorrow morning.

By consent, consideration of Section 20 was also postponed until same time.

On motion of Mr. Hole,
Sections 21 and 22 were adopted.

Mr. Kellam presented the report of the Joint Commission as follows:

WHEREAS, By an Act of Congress approved February 22, 1889, entitled, "An act to provide for the division of Dakota into two States, and to enable the people of North Dakota, South Dakota, Montana and Washington to form Constitutions and State governments and to be admitted into the Union on an equal footing with the original States and to make donation of public lands to such States." It was among other things provided that when the Constitutional Convention of North Dakota and the Constitutional Convention of South Dakota, which by said Act were duly provided for and authorized, should assemble and organize as in said Act provided, it should be and become the duty of said Conventions respectively to appoint a Joint Commission to be composed of not less than three members of each Convention, whose duty it should be to assemble at Bismarck, the present seat of government of said Territory, and agree upon an equitable division of all property belonging to the Territory of Dakota, the disposition of all public records, and also, adjust and agree upon the amount of the debts and liabilities of the Territory, which shall be assumed and paid by each of the proposed States of North Dakota and South Dakota. And,

WHEREAS, The said Constitutional Conventions of North Dakota and South Dakota having been duly elected and assembled and organized in pursuance of and as provided in said Act, did, as therein required and provided and for the purposes therein specified, appoint a Joint Commission consisting of not less than three members of each Convention, to-wit: Seven members of each Convention, as follows, to-wit:

E. W. Camp, B. F. Spalding, Alex. Griggs, Andrew Sandager, W. E. Purcell, Harvey Harris and J. W. Scott,
Appointed by the Convention of North Dakota, and
A. G. Kellam, V. T. McGillicuddy, Henry Neill, E. W. Caldwell, William Elliott, Charles H. Price and S. F. Brott,
Appointed by the Convention of South Dakota. And,

WHEREAS, The said Joint Commission so appointed and composed, having duly assembled at Bismarck, as by said Act provided, and being now and here so assembled, and having as such Joint Commission duly and carefully considered the several matters which by said Act are referred to them for disposition and Agreement, do now adopt and confirm the following Agreement, compact and convention, that is to say:

I.

This Agreement shall take effect and be in force from and after the admission into the Union as one of the United States of America, of either the State of North Dakota or the State of South Dakota.

II.

The words, "State of North Dakota," wherever used in this Agreement, shall be taken to mean the Territory of North Dakota in case the State of South Dakota shall be admitted into the Union prior to the admission into the Union of the State of North Dakota; and the words, "State of South Dakota," wherever used in this Agreement, shall be taken to mean the Territory of South Dakota in case the State of North Dakota shall be admitted into the Union prior to the admission into the Union of the State of South Dakota.

III.

Upon the taking effect of this Agreement all the right, title, claim and interest of the Territory of Dakota in and to any public institutions, grounds or buildings situate within the limits of the proposed State of North Dakota, as such limits are defined in said Act of Congress, shall vest in said State of North Dako-

ta; and said State of North Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings, and shall pay all warrants issued under and by virtue of that certain Act of the Legislative Assembly of the Territory of Dakota, approved March 8, 1889, entitled, "An Act to provide for the refunding of outstanding warrants drawn on the Capitol Building Fund."

IV.

Upon the taking effect of this Agreement, all right, title, claim and interest of the Territory of Dakota in and to any public institutions, grounds or buildings situate within the limits of the proposed State of South Dakota, as defined in said Act of Congress, shall vest in said State of South Dakota. And said State of South Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings.

V.

That is to say:

The State of North Dakota shall assume and pay the following bonds and indebtedness, to-wit:

Bonds issued on account of the Hospital for Insane at Jamestown, North Dakota, the face aggregate of which is.....	\$ 266,000 00
Bonds issued on account of the North Dakota University at Grand Forks, North Dakota, the face aggregate of which is.....	96,700 00
Bonds issued on account of the Penitentiary at Bismarck, the face aggregate of which is.....	93,600 00
Refunding Capitol Building Warrants, dated April April 1, 1889.....	83,507 46

And the State of South Dakota shall assume and pay the following bonds and indebtedness, to-wit:

Bonds issued on account of the Hospital for the Insane at Yankton, South Dakota, the face aggregate of which is.....	\$ 210,000 00
Bonds issued on account of the School for Deaf Mutes at Sioux Falls, South Dakota, the face aggregate of which is.....	51,000 00
Bonds issued on account of the University at Vermillion, South Dakota, the face aggregate of which is.....	75,000 00

Bonds issued on account of the Penitentiary at Sioux Falls, South Dakota, the face aggregate of which is.....	94,300 00
Bonds issued on account of the Agricultural College at Brookings, South Dakota, the face aggregate of which is.....	97,500 00
Bonds issued on account of the Normal School at Madison, South Dakota, the face aggregate of which is.....	49,400 00
Bonds issued on account of the School of Mines at Rapid City, South Dakota, the face aggregate of which is.....	33,000 00
Bonds issued on account of the Reform School at Plankinton, South Dakota, the face aggregate of which is.....	30,000 00
Bonds issued on account of the Normal School at Spearfish, South Dakota, the face aggregate of which is.....	25,000 00
Bonds issued on account of the Soldiers' Home at Hot Springs, South Dakota, the face aggregate of which is	45,000 00

VI.

Each State shall receive all unexpended balances of the proceeds of the bonds which it so assumes, whether such balances have been covered back into the treasury or not.

VII.

All furniture, fixtures, provisions, appurtenances and appliances, tools, implements and other movable property of the Territory of Dakota, situate in or used in connection with any of said public institutions, grounds or buildings, shall become and be the property of the State or Territory in which such grounds, buildings or institution may be situated, except as herein otherwise specifically provided.

VIII.

In case of loss in whole or part of any of the property of the Territory of Dakota prior to the taking effect of this agreement, the State in which such property would have vested if the same had not been destroyed, or in which such property so injured shall vest, shall receive any sums payable upon policies of insurance issued upon such property; and if loss not covered by insurance occurs on any of such property, such loss shall be

borne by the State in which it is hereby agreed that such property would vest on the taking effect of this agreement.

IX.

Upon the taking effect of this Agreement all unearned premiums of insurance shall vest in the State or Territory in which the property insured thereby shall vest.

X.

The States of North Dakota and South Dakota shall pay one-half each of all liability now existing or hereafter and prior to the taking effect of this agreement incurred, except those heretofore or hereafter incurred on account of public institutions, grounds or public buildings, except as otherwise herein specifically provided.

XI.

Each of said States shall succeed to all rights of the Territory of Dakota upon contracts for public works within such State or upon bonds given to secure the performance of such contracts.

XII.

All other bonds issued prior to the taking effect of this agreement upon which a cause of action has or shall prior to the taking effect of this agreement accrue to the Territory of Dakota shall be sued upon by the State of North Dakota, and it is hereby made the duty of said State to sue thereon, and one-half of the penalties or damage collected by said State thereon shall be paid over to the other State, and the costs of such suit or collection shall be borne equally by said States, save as it may be necessary to apply such proceeds otherwise in order to carry into effect the provisions of Article XXI of this Agreement.

XIII.

The furniture, fixtures, appliances and appurtenances used in and about or pertaining to the public offices of the Territory shall be the property of the State within the proposed limits of which said offices are now kept.

XIV.

The Territorial Library, including such books and volumes as may be added thereto prior to the taking effect of this agreement, shall be the property of the State of South Dakota.

XV.

One-half of all the copies of the Compiled Laws of the Territory of Dakota, Revised Codes and of all Session Laws, printed Journals of the House and Council of the Legislative Assembly of said Territory, and of other printed reports of officers of the Territory (except those composing a part of said library), remaining undistributed or undisposed of according to law at the taking effect of this agreement, shall be delivered on demand to the proper authorities of the State of South Dakota.

XVI.

All arms, ammunition, quartermaster's and ordnance stores distributed to and now in possession of militia companies of the Territory of Dakota shall remain in their possession, and all the right, title and interest of the Territory of Dakota in and to such arms, ammunition and stores shall vest in the State in which the armories or headquarters of such companies shall be situated. All 45-calibre rifles and ammunition of same calibre stored in Capitol at Bismarck and all 45-calibre rifles heretofore issued to Company F, First Regiment, at Bismarck, shall be the property of North Dakota.

XVII.

All other arms, ammunition, quartermaster's and ordnance stores shall be equally divided between the States of South Dakota and North Dakota.

XVIII.

All other items of personal property and miscellaneous effects belonging to the Territory, except the territorial library, and the territorial records and archives, shall be divided as nearly equally as possible between North and South Dakota.

XIX.

The State of South Dakota shall pay to the State of North Dakota Forty-six Thousand Five Hundred Dollars, on account of the excess of territorial appropriations for the permanent improvement of territorial institutions which under this Agreement will go to South Dakota, and in full of the undivided one-half interest of North Dakota in the territorial library, and in full settlement of unbalanced accounts, and of all claims against the Territory, of whatever nature, legal or equitable, arising out of the alleged erroneous or unlawful taxation of Northern Pacific Railroad lands, and the payment of said amount shall discharge and exempt the State of South Dakota from all liability for or on account of the several matters hereinbefore referred to, nor

shall either State be called upon to pay or answer to any portion of liability hereafter arising or accruing on account of transactions heretofore had, which liability would be a liability of the Territory of Dakota had such Territory remained in existence, and which liability shall grow out of matters connected with any public institutions, grounds or buildings of the Territory situate or located within the boundaries of the other State.

XX.

Neither State shall pay any portion of liability of the Territory arising out of erroneous taxation of property situated in the other State.

XXI.

A final adjustment of accounts shall be made upon the following basis: North Dakota shall be charged with all sums paid on account of the public institutions, grounds or buildings located within its boundaries on account of the current appropriations since March 8, 1889; and South Dakota shall be charged with all sums paid on account of public institutions, grounds or buildings located within its boundaries on the same account and during the same time. Each State shall be charged with one-half of all other expenses of the Territorial government during the same time. All moneys paid into the treasury during the period from March 8, 1889, to the time of taking effect of this Agreement, by any county, municipality or person within the limits of the proposed State of North Dakota shall be credited to North Dakota; and all such sums paid into said treasury within the same time by any county, municipality or person within the limits of the proposed State of South Dakota shall be credited to the State of South Dakota; except that any and all taxes on gross earnings paid into said treasury by railroad corporations since the 8th day of March, 1889, based upon the earnings of years prior to 1888, under and by virtue of the Act of the Legislative Assembly of the Territory of Dakota, approved March 7, 1889, and entitled "An Act providing for the levy and collection of taxes upon property of railroad companies in this Territory," being Chapter 107 of the Session Laws of 1889, (that is, the part of such sums going to the Territory), shall be equally divided between the States of North Dakota and South Dakota. And all taxes heretofore or hereafter paid into the said treasury under and by virtue of the Act last mentioned, based on gross earnings of the year 1888, shall be distributed as already provided by law, except that so much thereof as goes to the Territorial treasury shall be divided as follows: North Dakota shall

have so much thereof as shall be or has been paid by railroads within the limits of the proposed State of North Dakota, and South Dakota so much thereof as shall be or has been paid by railroads within the limits of the proposed State of South Dakota. Each State shall be credited, also with all balances of appropriations made by the Seventeenth Legislative Assembly of the Territory of Dakota, for the account of the public institutions, grounds or buildings located within its limits remaining unexpended on March 8, 1889. If there shall be any indebtedness except the indebtedness represented by the bonds and refunding warrants hereinbefore mentioned, each State shall at the time of such final adjustment of accounts, assume its share of said indebtedness as determined by the amount paid on account of the public institutions, grounds or buildings of such State in excess of the receipts from counties, municipalities, railroad corporations or persons within the limits of said State as provided in this Article; and if there should be a surplus at the time of such final adjustment, each State shall be entitled to the amount received from counties, municipalities, railroad corporations or persons within its limits, over and above the amount charged to it.

XXII.

The payment from South Dakota to North Dakota shall be made by South Dakota's assuming North Dakota's share of current liabilities at the time of final adjustment, to the extent of South Dakota's indebtedness under this Agreement, to North Dakota; and if any balance shall remain due to North Dakota from South Dakota, payment of said balance shall be provided for by the first Legislature of South Dakota.

XXIII.

Upon the taking effect of this Agreement all claims for taxes due the Territory of Dakota shall become the property of and may be collected by the State or Territory within the limits whereof the counties are situate against which such taxes stand charged upon the Territorial Treasurer's books.

But this article shall not be held to refer to or govern the disposal of any taxes to be paid by railroad corporations which are specifically provided for by Article XXI thereof,

XXIV.

All other claims and demands of the Territory of Dakota outstanding when this Agreement shall take effect, the collection whereof is not hereinbefore provided for, shall be sued upon and collected by the State of South Dakota, and the costs of suits so

brought and the amounts collected shall be divided equally between the two States of North Dakota and South Dakota.

And said Commission so assembled and acting under and by virtue of the authority upon it by said Act of Congress conferred, further agrees as follows:

I.

The following books, records and archives of the Territory of Dakota shall be the property of North Dakota, to-wit:

All records, books and archives in the offices of the Governor and Secretary of the Territory (except records of Articles of Incorporation of Domestic Corporations, Returns of Election of Delegates to the Constitutional Convention of 1889 for South Dakota, Returns of Elections held under the so-called Local Option Law in counties within the limits of South Dakota, Bonds of Notaries Public appointed for counties within the limits of South Dakota, papers relating to the organization of counties situate within the limits of South Dakota, all of which records and archives are a part of the records and archives of said Secretary's office; excepting also Census Returns from counties situate within the limits of South Dakota and papers relating to requisitions issued upon the application of officers of counties situate within the limits of South Dakota, all which are part of the records and archives of said Governor's office.) And the following records, books and archives shall also be the property of the State of North Dakota, to-wit:

Vouchers in the office or in the custody of the Auditor of this Territory relating to expenditures on account of public institutions, grounds or buildings situate within the limits of North Dakota; one Warrant Register in the office of the Treasurer of this Territory—being a record of warrants issued under and by virtue of Chapter Twenty-four of the laws enacted by the Eighteenth Legislative Assembly of Dakota Territory; all letters, receipts and vouchers in the same office now filed by counties and pertaining to counties within the limits of North Dakota; paid and canceled coupons in the same office representing interest on bonds which said State of North Dakota is to assume and pay; reports of gross earnings of the year 1888 in the same office, made by corporations operating lines of railroads situated wholly or mainly within the limits of North Dakota; records and papers of the office of the Public Examiner of the Second District of the Territory; records and papers of the office of the Second District Board of Agriculture; records and papers in the office of the Board of Pharmacy of the District of North Dakota.

All records, books and archives of the Territory of Dakota which it is not herein agreed shall be the property of North Dakota, shall be the property of South Dakota.

The following books shall be copied and the copies shall be the property of North Dakota and the cost of such copies shall be borne equally by the said States of North Dakota and South Dakota, that is to say:

Appropriation Ledger for years ending November 1889, and 1890—one volume;

The Current Warrant Auditor's Register—one volume;

Insurance Record for 1889—one volume;

Treasurer's Cash Book—"D";

Assessment Ledger—"B";

Dakota Territory Bond Register—one volume;

Treasurer's Current Ledger—one volume.

The originals of the foregoing volumes which are to be copied shall at any time after such copying shall have been completed, be delivered on demand to the proper authorities of the State of South Dakota.

All other records, books and archives which it is hereby agreed shall be the property of South Dakota shall remain at the Capitol of North Dakota until demanded by the Legislature of the State of South Dakota, and until the State of North Dakota shall have had a reasonable time after such demand is made to provide copies or abstracts or such portions thereof as the said State of North Dakota may desire to have copies or abstracts of.

The State of South Dakota may also provide copies or abstracts of such records, books and archives which is agreed shall be the property of North Dakota as said State of South Dakota shall desire to have copies or abstracts of.

The expense of all copies or abstracts of records, books and archives which it is herein agreed may be made, shall be borne equally by said two States.

II.

And this Commission further agrees that the two commissions composing the same shall recommend to their respective Conventions for adoption as a part of the Schedule of the proposed Constitution for the State of North Dakota and the State of South Dakota respectively, the following, that is to say:

"The Agreement made by the Joint Commission of the Constitutional Conventions of North and South Dakota concerning the records, books, and archives of the Territory of Dakota

is hereby ratified and confirmed, which Agreement is in the words following: that is to say;" (and then shall follow the words of the article last above written.)

In testimony and confirmation whereof, the said Joint Commission now assembled and acting as such, has caused this Agreement to be signed and executed by and on its behalf and as its act and deed, and witnessed by the names hereto by each subscribed of the members comprising said Joint Commission as hereinbefore recited.

Done at Bismarck, Dakota, this 31st day of July, A. D. 1889.

A. G. KELLAM,
V. T. MCGILLICUDDY,
HENRY NEIL,
E. W. CALDWELL,
W. ELLIOTT,
CHARLES H. PRICE,
S. F. BROTT,
E. W. CAMP,
BURLEIGH F. SPALDING,
ALEX. GRIGGS,
ANDREW SANDAGER,
W. E. PURCELL,
HARVEY HARRIS,
JOHN W. SCOTT.

On motion of Mr. Caldwell, consideration of said report was postponed until tomorrow morning.

On motion of Mr. Peck

The Convention adjourned.

THIRTIETH DAY.

SIoux FALLS, Dakota, Aug. 2, 1889.

9 o'clock A. M.

Convention called to order by the President.

Prayer was offered by the Chaplain.

Reading of Journal, on motion of Mr. Spooner, was dispensed with.

An invitation from the Burlington, Cedar Rapids and Northern R'y, to visit Spirit Lake, received and on motion accepted for Saturday, Aug. 3.