

Article to be incorporated into the Constitution to be submitted respecting Territorial debts and liabilities as provided in said Act of Congress hereto attached, marked "B."

Your Committee also recommend the adoption as an article of the schedule of the Constitution, the agreement of said Joint Commission concerning the records, books and archives of the Territory, the same to be preceded by the following words, to-wit:

"The agreement made by this 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 is in the words following those to say."

All of which is respectfully submitted.

A. G. KELLAM,  
Chairman.

And moved that that part of the report marked "A" be referred to the Committee on State and Municipal Indebtedness, and

The part marked "B" be referred to the Schedule Committee.

So referred.

Mr. Brott asked leave of absence and that Mr. Stoddard be permitted to attach his (Brott's) signature to the Constitution. Permission granted.

On motion of Mr. Jolley,

Convention adjourned to meet at 9 A. M. tomorrow.

### THIRTY-FIRST DAY.

• SIOUX FALLS, Dakota, Aug. 3, 1889.

9 o'clock A. M.

Convention called to order by the President.

Prayer was offered by Chaplain.

On motion of Mr. Sterling,

The reading of the Journal was dispensed with.

Committee on State, County and Municipal Indebtedness submitted the following report:

SIOUX FALLS, Dakota, August 2, 1889.

MR. PRESIDENT:

Your Committee on State, County and Municipal Indebted-

ness, to whom was referred Article XIII entitled "Public Indebtedness" have considered the same and have compared said Article XIII with the Sioux Falls Constitution, and the Act of Congress known as the "Omnibus Bill," and have instructed me to report the following as Article XIII of the Constitution and that the same is in accordance with the Sioux Falls Constitution and the changes thereto authorized by the "Omnibus Bill."

### ARTICLE XIII.

#### PUBLIC INDEBTEDNESS.

SECTION 1. Neither the State nor any county, township or municipality shall loan or give its credit or make donations to or in aid of any individual, association or corporation except for the necessary support of the poor, nor subscribe to or become the owner of the capital stock of any association or corporation nor pay or become responsible for the debt or liability of any individual, association or corporation; provided, that the state may assume or pay such debt or liability when incurred in time of war for the defense of the State. Nor shall the State engage in any work of internal improvement.

SEC. 2. 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, 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.

SEC. 3. That the indebtedness 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.

SEC. 4. The debt of any county, city, town, school district or other subdivision, shall never exceed five per centum upon the assessed value of the taxable property therein.

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.

SEC. 5. Any city, county, town, school district or any other subdivision incurring indebtedness shall, at or before the time of

so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due, and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrevocable until such debt be paid.

#### TERRITORIAL DEBTS AND LIABILITIES.

SECTION 6. In order that payment of the debts and liabilities contracted or incurred by and in behalf of the Territory of Dakota may be justly and equitably provided for and made, and in pursuance of the requirements of 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 donations of public lands to such States," the States of North Dakota and South Dakota, by proceedings of a Joint Commission, duly appointed under said Act, the sessions whereof were held at Bismarck, in said State of North Dakota, from July 16, 1889, to July 31, 1889, inclusive, have agreed to the following adjustment of the amounts of the debts and liabilities of the Territory of Dakota which shall be assumed and paid by each of the States of North Dakota and South Dakota, respectively, to-wit:

1. 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.

2. 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.

3. The 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, as are located within the boundaries of North Dakota, and shall pay all warrants issued by virtue of and under that certain Act of the Legislative Assem-

bly 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."

4. The 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, maintenance of such public institutions, grounds or buildings as are located within the boundaries of South Dakota.

5. 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 Two Hundred and Sixty-Six Thousand Dollars; also Bonds issued on account of the North Dakota University at Grand Forks, North Dakota, the face aggregate of which is Ninety-Six Thousand Seven Hundred Dollars; also Bonds issued on account of the Penitentiary at Bismarck, North Dakota, the face aggregate of which is Ninety-three Thousand Six Hundred Dollars; also Refunding Capitol Building Warrants, dated April 1, 1889, Eighty-three Thousand Five Hundred and Seven Dollars and Forty-Six cents.

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 Two Hundred and Ten Thousand Dollars; also, bonds issued on account of the School for Deaf Mutes, at Sioux Falls, South Dakota, the face aggregate of which is Fifty-one Thousand Dollars; also, bonds issued on account of the University at Vermillion, South Dakota, the face aggregate of which is Seventy-five Thousand Dollars; also, bonds issued on account of the Penitentiary at Sioux Falls, South Dakota, the face aggregate of which is Ninety-four Thousand Three Hundred Dollars; also, bonds issued on account of the Agricultural College, at Brookings, South Dakota, the face aggregate of which is Ninety-seven Thousand Five Hundred Dollars; also, bonds issued on account of the Normal School at Madison, South Dakota, the face aggregate of which is Forty-nine Thousand Four Hundred Dollars; also, bonds issued on account of the School of Mines at Rapid City, South Dakota, the face aggregate of which is Thirty-three Thousand Dollars; also, bonds issued on account of the Reform School at Plankinton, South Dakota, the face aggregate of which is Thirty Thousand Dollars; also, bonds issued on account of the Normal School at Spearfish, South Dakota, the face aggre-

gate of which is Twenty-five Thousand Dollars; also, bonds issued on account of the Soldiers' Home at Hot Springs, South Dakota, the face aggregate of which is Forty-five Thousand Dollars.

6. The States of North Dakota and South Dakota shall pay one-half each of all liabilities 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 buildings, except as otherwise herein specifically provided.

7. 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 institution, grounds or buildings of the Territory situated or located within the boundaries of the other State.

8. 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 the State of North Dakota; and all 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 sum 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 situated 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 amounts received from counties, municipalities, railroad corporations or persons within its limits over and above the amount charged to it.

In witness whereof, the members of said Joint Commission have subscribed their names hereto, this 31st day of July, A. D. 1889, at Bismarck, Dakota.

E. W. CAMP,  
BURLEIGH F. SPALDING,  
ALEX. GRIGGS.  
ANDREW SANDAGER,  
W. E. PURCELL,  
HARVEY HARRIS,  
JOHN W. SCOTT.

A. G. KELLAM,  
V. T. MCGILLYCUDDY,  
HENRY NEILL,  
E. W. CALDWELL,  
W. ELLIOTT,  
CHARLES H. PRICE.  
S. F. BROTT,

SEC. 7. And the State of South Dakota hereby obligates itself to pay such part of the debts and liabilities of the Territory of Dakota as is declared by the foregoing Agreement to be its proportion thereof, the same as if such proportion had been originally created by said State of South Dakota as its own debt or liability.

C. G. SHERWOOD, Chairman.

E. E. CLOUGH.

M. P. STROUPE,

T. F. DIEFENDORF,

I. R. SPOONER.

JOHN L. JOLLEY.

SAMUEL A. RAMSEY.

T. W. P. LEE.

Committee on Schedule submitted the following report:

SIoux FALLS, S. D., Aug. 3, 1889.

MR. PRESIDENT:

Your Committee on Schedule and Ordinance, to whom was referred that part of the report of the "Joint Commission" relating to the disposition of the books, records and archives of the Territory of Dakota, having had the same under consideration, beg leave to report the following hereto attached and we recommend that it be adopted as part of the Schedule and Ordinance, and numbered Section 23.

"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;"

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.

By the Committee on Schedule and Ordinance.

L. H. HOLE,  
Chairman.

On motion of Mr. Hole, the rules were suspended and the last report adopted.

On motion of Mr. Hole, the report of the Committee on Schedule, which had been considered section by section, was adopted as a whole.

Mr. Sherwood moved

To adopt report on State, County and Municipal Indebtedness.

The President called Mr. Williams to the chair.

Mr. Williamson moved the following amendment:

That the report of the Committee be amended by inserting the figures 100,000 in lieu of the figures 500,000 in Section 2.

On motion of Mr. Hole

The further consideration of the Committee's report was postponed till 2 o'clock P. M.

On motion of Mr. Sherwood,

A recess was taken till 2 o'clock P. M.

2 o'clock P. M.

President in the chair.

Mr. Caldwell asked consent to offer the following resolution:

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 resolution was adopted.

Mr. Williamson moved

To amend the report of the Committee on State and Municipal Indebtedness by inserting the figures 100,000 in lieu of the figures 500,000 in Section 2.

Carried.

Mr. Neill offered the following as an amendment:

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.

Amendment lost.

Mr. VanBuskirk offered

The following substitute for Section 2 of the Committee's report:

SEC. 2. 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, 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.

Amendment lost.

The report as amended was adopted.

Mr. Wood of Pennington moved,

That the vote by which the report was adopted be reconsidered and the motion to reconsider be laid upon the table.

Carried.

The Committee on Printing made the following report and moved its adoption.

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 form the words, "This is to certify." All of which is respectfully submitted.

H. A. HUMPHREY,  
Chairman of Committee.

Motion carried.

On motion of Mr. Ringsrud

The Convention adjourned till 1 P. M. Monday.