

are away from home. We want to stay as long as may be necessary to do this work carefully and deliberately, but at the same time we would like to have an hour set for meeting to-morrow afternoon.

Mr. HARRIS. If we can meet to-morrow afternoon we can decide this preliminary question, but if we can't decide it then, we can take more time. If we can possibly get at it then, it would be well for us to do so.

Mr. PURCELL. I move that we adjourn till to-morrow at 3:30 in the afternoon.

The motion was seconded and carried.

THIRD DAY.

BISMARCK, *Thursday, July 18, 1889.*

The Commission was called to order at 3:30 p. m.

A. G. KELLAM in the chair.

Mr. KELLAM. When we adjourned yesterday, I think we were informally discussing plans to see if we could agree upon some starting point, or basis from which to work, in the division of the property of the Territory, and particularly the institutions of the Territory and the debts incident to them; and I suppose unless some other course is indicated, perhaps it would be well enough to take them up and dispose of them in some way.

Mr. CALDWELL. Owing to an error, which I had no opportunity for knowing, there was a very large bull in the figuring I stated to the Commission yesterday. I stated here yesterday that there had been paid for South Dakota institutions, for instance, on account of bonds issued therefor, about \$70,000, while there had been paid to North Dakota institutions in excess, or bonds which were issued, \$143,000. The error arose from including in one of the columns a very large account which had no business there, and which arose in this manner: Looking over the figures we called out the amounts and the gentleman who assisted me copying two columns with reference to construction and with reference to

maintenance in the construction column, a considerable item, which thereby of course increased that amount. Further, there was included also in the figures which I reported an account which was subsequent to the date, the 30th of November, 1888. There were including in the figures I stated, some other items that came in after that time; and I would state that on a re-examination of the figures, very carefully, shows that instead of there being, as I stated yesterday some \$73,000 difference between the excess of construction of value and the bond value, and between the two States, that the excess is only about \$3,000. That is to say that up to the 30th day of November, 1888, the North Dakota institutions had had for construction purposes about \$3,000 more than the South. The difference between the construction cost and the bonds issued is about \$3,000 in favor of North Dakota. I make this as a personal statement. Of course the gentlemen will understand I have no purpose in misleading anybody. I had gone to work, compiled these figures, and at the time I made the statement I believed it to be correct.

Mr. PURCELL. Your investigation was made with reference to appropriations made to the different parts of the Territory, that would go to make up the permanent property of the institutions—permanent improvements?

Mr. CALDWELL. Yes, sir.

Mr. PURCELL. Is it your understanding that the direct appropriations made for permanent improvements to North Dakota, not counting the bonded indebtedness, in excess of those to South Dakota is \$3,000?

Mr. CALDWELL. No, sir; I meant the excess of the amounts—that is, you will take and charge against North Dakota the total amount paid from any source whatever for public improvements; you will then subtract from that the total amount provided by bonds, and that subtraction or amount, the remainder, would indicate what had been paid out of the general fund. The same way, if you take the institutions of South Dakota; and these amounts paid upon these institutions out of the general fund for South Dakota and North Dakota, the total will be about \$3,000 more for North Dakota than South Dakota.

Mr. HARRIS. There is a bond fund still there—that has not all been used?

Mr. CALDWELL. No, it was not all used the 30th of November, 1888.

Mr. HARRIS. There was, say, \$100,000 bonds of real estate sold for the Insane Hospital at Yankton; there was only \$75,000 worth of them used; there has been out of the general fund appropriated so many dollars to that institution—\$25,000 say; there is a bond fund and a general fund, \$125,000; now, if you subtract your \$100,000 worth of bonds from that, it is not going to give—

Mr. CALDWELL. No; that is the statement I made yesterday, only to the 30th of November, 1888.

Mr. CAMP. Then, there is a good amount of premium on bonds.

Mr. KELLAM. If there is an unexpended balance of the Yankton Insane Asylum of \$25,000 and South Dakota takes the asylum and assumes the indebtedness, of course, it would take the unexpended balance. So with the North Dakota institution; it would assume the indebtedness—assume the payment of the bonds that belonged to it; but if there was still an unexpended balance in the Treasury arising from the sale of any appropriation, of course, that institution would take and have the unexpended balance. That would be my idea.

Mr. HARRIS. If there had been \$100,000 bonds sold for \$100,000; \$75,000 bond fund paid in that institution, and \$25,000 of general fund paid would make \$100,000 paid into that institution; if you take the amount of bonds from the whole amount paid there is a difference of \$25,000 remaining to that institution that you propose to turn over to them.

Mr. PURCELL. Upon the basis suggested by Mr. CALDWELL, I have made some investigation and if you will permit me for a moment I will give you the benefit of my research. For instance, these are taken in many instances from the Session Laws. Take the Sioux Falls Penitentiary first; chapter twenty-three, Session Laws of 1881, makes an appropriation for office furniture, stoves, fuel, lights, incidental expenses of the prison including necessary traveling expenses, of \$7,000. That shows on the Treasurer's books. It is difficult to separate that item or to show just what part of it was expended for furniture for the office, stoves, lights, etc. It is very difficult—it cannot be done from the Treasurer's books as I understand it. Session Laws of 1883, there was an appropriation made of \$2,500 for farming implements, temporary stables for that institution; for temporary yard walls, \$1,500; furnishing residence of warden, \$1,000; making in all that year for

that institution, \$12,000. For the hospital at Yankton 1879, to Governor Howard for money advanced by him in the erection of the hospital, \$2,386.30. Chapter three of the laws of 1879 to complete buildings, \$3,900. For erection of prison walls, \$10,000; for repairs and improvements in 1881, \$1,500; for improvements on farm, \$2,500. Chapter five, Session Laws of 1883—appropriation for repairs and improvements, \$2,500; improvements of farm, \$3,000, improving grounds, \$1,000. Chapter nine, Session Laws of 1885; for repairs and improvements for hospital, \$2,500; for improvement of hospital farm, \$3,000; for improving hospital grounds, \$2,500; for completing and furnishing building, \$3,250; for building ice houses, extension of barn, slaughter house, root and hen house, fitting basement for the amusement of patients, \$4,000; for purchase of teams and conveyance of patients, \$700; for improving sewerage, \$1,500; by amount due contractors, \$520, making in all \$44,756.30 amount of appropriations made for direct improvements which are not represented by the bond—the bonded indebtedness of that institution \$210,000.

Take the University of Vermillion: Appropriations made in the year 1883 for apparatus, \$1,000; for improving grounds, \$500; for the year 1885 appropriations as follows: Library, \$1,000; for apparatus, \$1,000; for dormitory and water works, \$10,000; for the year 1887—apparatus, \$3,000; for library, \$1,000; for heating and furnishing east wing of University, \$1,000; making in all \$18,500 for the University of Vermillion besides the bonded indebtedness.

The Agricultural College, I presume, is at Brookings. In 1887 there was appropriated for apparatus and mathematical instruments, \$400; for wells, cisterns, water tank and steam power pump, \$1,800; for steam heating appliances for 1885 and 1886, \$1,996; for material and labor furnished on the third story of the young ladies' dormitory, \$1,059; making in all \$5,255 of direct appropriations for the Agricultural College, besides the bonded indebtedness, \$97,500. The Madison Normal School: In 1885 an appropriation for suitable buildings of \$5,000; for library in 1887 of \$500; making direct appropriations of \$5,500 besides the bonded indebtedness of \$49,400. The Normal School at Spearfish appropriation in 1883 for suitable buildings, \$5,000; in 1887, library apparatus, \$800; in addition to the bonded indebtedness of \$25,000. Take the School of Mines for fuel and light, apparatus and furniture, there was appropriated \$2,500. For the year 1887 there was appropriated for water works, electricity, library, fuel, \$3,000.

It is difficult, as I stated with reference to the items, to separate what part of this item was furniture; what part for water-works, and how much for library.

The Deaf and Dumb Asylum, during the year 1881, appropriation for the purpose of building \$2,000, has a bonded indebtedness of \$51,000. There was appropriated for the Reform School, in 1887, \$12,000 for current and contingent expenses; and the law provided, at the time this appropriation was made, that this amount should be expended as the trustees of that institution saw fit. We are unable to find just what proportion of that fund was used for permanent improvements.

The whole amount of direct appropriations made, taking into consideration those items which we were unable to separate, South Dakota has received \$99,311.30 of direct appropriations for her institutions other than that which is expressed by the bonds. I desire to say the \$12,000 I spoke of is not included in this \$99,311.30. The Reform School I did not include.

The North Dakota public institutions have received the following direct appropriations:

Insane Hospital, 1885, for repairs and improvements, \$2,500; for improvement of Hospital farm, \$3,000; for improving grounds, \$1,000; for farm stock, horses, cows, hogs and fowl, \$2,000; for farm implements, \$1,000; purchasing team and conveyance for patients, \$700. In 1887, received appropriation for repairs and improvements, \$3,000; for musical instruments for amusement of patients, \$2,500; finishing basement, \$2,500; for pig pens, hennery, etc., \$800; for elevators, \$850; for storm windows, porches, etc., \$1,500; for machinery and tools for shops, \$800; making in all \$23,150 of direct appropriations, besides the bonded indebtedness of \$266,000.

The Bismarck Penitentiary, in 1885, received for team and tools, \$1,214; it has a bonded indebtedness of \$93,600.

The North Dakota University for 1883: appropriation for apparatus, \$1,000; improving grounds, \$400; in 1885 for laying water mains, \$10,000; in 1887 for natural science, chemical and physical apparatus, \$3,000; for museum, \$2,000; for library, \$2,000; making in all \$18,400 that the North Dakota University received of direct appropriations. The whole amount which those three institutions have received of direct appropriations, is \$42,764. In that I have not included the \$2,224.40 which has been expended for furniture, etc., in this building here; if that was included it would amount

to \$64,988.40, as against those received in South Dakota of \$99,311.30.

Mr. NEILL. Are those the actual amounts drawn out of the Treasury?

Mr. PURCELL. They are the amounts appropriated by the law and I think have been applied.

Mr. NEILL. May and may not.

Mr. PURCELL. Of course, in addition to these there should be due to the different institutions any appropriations made last year not paid to them, up to the present time, or such a time as we agree upon. This investigation was made entirely upon the basis talked.

Mr. KELLAM. I understand there are several items you are unable to separate?

Mr. PURCELL. There are three; one of the Sioux Falls Penitentiary, for stoves, fuel, light, incidental expenses of the prison, pay of contractors and traveling expenses of \$7,000; that is one. Then there are two others one of \$2,500, and the \$3,000 more appropriated to the School of Mines for electricity, water works, fuel, light, etc., which of course we are unable to separate at present. Then I desire to say that we are entitled to a reduction in North Dakota from the amount of the \$7,000 coming back from the Penitentiary at Bismarck and the Asylum.

Mr. SPALDING. Is not there one item in the Insane Asylum at Jamestown which is in the same uncertain conditions as those mentioned in South Dakota, covering appropriations for the purchase of musical instruments for the amusement of patients? That is one of the items we have been unable to separate.

Mr. CALDWELL. I would say in reference to the figures which have been reported by me as correct, that it is at least to be supposed that the expenditures of the Territory for any purpose are to be found in the reports of the Auditor's office of the Territory. There is no other way by which money, even if it may have been appropriated by the Legislature, could get out of the Territorial Treasury. The only way it could be obtained is by the warrant of the Auditor, and I have here the reports of the Auditor of 1880, November 30, coming up to November 30, 1888. In each of these reports the officers give a summary of the expenditures for such purpose as he has drawn warrants; and accepting it as a fact that money for any of these purposes in construction or maintenance, or for any other purpose indicated, by any of

these institutions could only have been by the Auditor's warrant, I submit that these reports should show actually what has been expended.

Mr. HARRIS. Will that show—

Mr. CALDWELL. We will take the Auditor's report for the biennial period ending November 30, 1882. He says in here, "as provided by law and in compliance therewith, I have the honor to submit herewith report of transactions of this office from November 30, 1880, to November 30, 1882." Gives the total amount of warrants issued, so much and upon the following accounts. And then, furthermore, this volume contains the details of these expenditures, both the running account of the warrants drawn, arranged with reference to their sequence by number, and, also, account with each of the respective institutions, and the objects for which money could be drawn from the Treasury. And, I say, taking that statement there, and I have checked opposite each item the letter "Q" to indicate that it went into the construction account, have taken up the report for the period ending November 30, 1882. Following that is the report given here, ending November 30, 1884, noting the amounts actually expended, and, of course, there could not have been any expended otherwise. Take the amounts reported by the Treasurer having been expended during the period between November 30, 1882, and November 30, 1884. Then, also, take up the Auditor's report for the period ending November 30, 1886, and I find here a summarized statement of the expenditures which were probably charged against the Territorial Treasury; and taking up then the report of the Auditor for the succeeding biennial period in November, 1888, which is the last report issued. Taking those various items it makes an expenditure of \$464,199.44 on behalf of the construction of institutions in North Dakota; or improvements which might be properly charged as connected therewith—repairs and improvements. As I say, the amount for such items is \$464,199.44. That includes, as I say, the source from which the money was derived against which the Auditor should draw his warrant; could have been from bond or general fund, as there is nothing in his report to indicate the difference. He would head his books to each institution for such money as had been appropriated by the Legislature, regardless of where it came from. The Legislature not only was required to provide for the issue of bonds for a particular institution, but it was also required to appropriate the

proceeds thereof; and when the proceeds were appropriated they became, so far as the Auditor's office was concerned, the general fund of the Territory, and against the general fund the Auditor was to draw his warrant. He would, of course, indicate upon his warrant the fund to which it was to be charged by the Treasurer, but whether the money came as the proceeds of bonds or whether it came as the ordinary revenue of the Territory, his warrant would not indicate that fact. If his warrant would indicate, say that the Treasurer was to pay this amount, and the Treasurer could not pay any amount, he could not pay it in any other manner. I say all these various warrants of the Auditor for these various appropriations indicate that the construction of these several institutions, the total amount for North Dakota to be \$464,199.44, and the total amount for South Dakota institutions, \$694,812.39. If, now from this total expenditure by warrants of the Auditor, if from that there be subtracted the bonded indebtedness incurred by the Territory on behalf of the institutions of North Dakota, that bonded indebtedness, \$433,600 up to the time that this account came down to, there would be left as having been appropriated on behalf of North Dakota institutions from the general funds of the Territory, \$30,599.44; and if there be subtracted from the total expenditures for construction in South Dakota the amount of bonds issued for South Dakota institutions the remainder would be \$27,612—a difference of about \$3,000. As it would seem to me what has been paid out by this Territory is the record, and that officer of the Territory whose business it is to report exactly what his warrants have been drawn for and what the object has been, that the presumption is of course that they have been paid.

Mr. HARRIS. What would be done with unexpended balances?

Mr. CALDWELL. They would go with the institution.

Mr. HARRIS. Take the Insane Hospital at Yankton: I think there was a large unexpended balance the 30th of last November. If there were \$100,000 of bonds sold for \$100,000 in cash and that went into the Treasury, and when \$75,000 had been paid out, and there also had been appropriated out of the general fund \$25,000 it would only show on the Auditor's books \$100,000; and when you subtract that \$100,000 bonds from that there would be nothing left, while there would still be \$25,000 in the Treasury owing to the Yankton Insane Asylum, which would be a discrepancy of \$25,000.

Mr. CALDWELL. There are several balances. Here is \$7,000 balance I believe direct appropriations for the Jamestown Asylum.

Mr. CAMP. We were merely testing the accuracy of your reports.

Mr. CALDWELL. I give the bonds accurately reported by the Auditor.

Mr. CAMP. Then we want the amount not represented by bonds. The result is \$50,000 out of the way.

Mr. CALDWELL. I was going to say there was a considerable amount of bond balances in the Treasury for institutions.

Mr. CAMP. We were merely testing the accuracy of your figures.

Mr. PURCELL. In the South you have ten while in the North we have four. Now you will get ten institutions and we four. You will only assume about \$200,000 more of debt than we are and you are getting these institutions for \$200,000.

Mr. KELLAM. It must be their cost.

Mr. PURCELL. If you take the cost, it will reach nearly \$400,000.

Mr. KELLAM. I think this is the very thing we are trying to get at.

Mr. HARRIS. If there is \$100,000 sold for this institution, \$25,000 taken out of the general fund, the \$25,000 that remains in the treasury, if you will add that to the amount expended and then subtract the bonds, you will find it makes a difference of \$75,000.

Mr. CALDWELL. My statement comes up to the last biennial statement issued by the Territorial officer.

Mr. HARRIS. That will not make a particle of difference in the argument.

Mr. SCOTT. What is the matter with our figures? If it is a fact, and I believe it is, that the Treasurer has charged up or credited the institution with the amount of each appropriation, and that the balance up to that time, to which Mr. CALDWELL refers, shows that all those appropriations have been paid, is it not a fact, nevertheless, then, that there has been paid out of the general fund the amount which we have shown by this statement? Is it not a fact, then, that there has been appropriated to the South Dakota institutions so much more than to the North out of the general fund; and, as Mr. HARRIS just suggested, if that money

has been spent, there is still a credit to the institution, and by the terms, to be turned over to the institution as unexpended balances.

Mr. SPALDING. It seems to me a very simple matter. Of course, such as are taken from the reports of the appropriations made by the Legislature are correct, which can be rightly ascertained. If there are any satisfactory to you and others are not, part of these funds left in the Treasury, it seems to me all there is to do is to examine the books and see whether this is true or not, and deduct it from the figures Mr. PURCELL has presented.

Mr. CALDWELL. Of course, if it be the desire to go into all those details which are indicated, and if that be fixed as the basis, so far as I am concerned I am perfectly willing with the exception that I should dislike to be detained here for a month or the time which it would involve. Now, for instance, just as a matter—with regard to the figures presented by Mr. PURCELL. He has charged against an institution in South Dakota, I believe it is the Sioux Falls Penitentiary, \$10,000 which was never expended. And I maintain that the reports of the Auditor show what have been the expenditures, and it is the proper, readiest and most equitable method of determining the matter.

Mr. SCOTT. Would not the Treasurer's books show what became of that \$10,000?

Mr. CALDWELL. There never was anything come of it.

Mr. SPALDING. Then the Treasurer's books would show that was still on hand.

Mr. CALDWELL. Yesterday, when I believed as firmly as I would believe anything that there was a difference of \$73,000 in favor of North Dakota, and which conclusion I had arrived at by an error, I was still willing, so far as I was concerned, to make a settlement by a broad general basis. To go upon a basis of going into all these details is to go upon a basis which cannot be demonstrated how far any particular expense, and as I say, I maintain that the actual expenditures of the Territory are the proper and just and equitable basis upon which to determine how much of the public fund has gone into those institutions.

Mr. PURCELL. Yesterday when we were talking about a basis the Commission will recollect, we were taking into consideration appropriations made for permanent improvements, for repairs and for betterments connected with the institutions. When Mr. CALDWELL made his statement that the institutions of North

Dakota had received \$73,000 more appropriations for permanent improvements than South Dakota, I was somewhat surprised, because the institutions of South Dakota were formed, managed and had been running two or three years and some five years prior to the location and erection of any institution in North Dakota. Now, the institutions in North Dakota have been running, some since 1883, some since 1885, one, 1887, so the institutions in North Dakota have not existed as long as the institutions in South Dakota. And therefore, when that statement was made, I commenced, with others, to investigate that statement, and found it was incorrect. And the basis he stated this Commission to settle upon was incorrect. So far as we are concerned in the North, we are willing to consider each, as I said before, that the basis of this settlement shall be upon the appropriations received for building, repairs and permanent improvements. Now, it won't require any great length of time to ascertain, either from the books of the Auditor or the Treasurer, in connection with the present, that have been made by the different Legislatures, the amounts appropriated and the amounts that have been paid. I don't know of any institution either in North or South Dakota, with one exception, that has failed to eat up its appropriation. So it seems to me there can be no delay in this matter by standing upon the basis that Mr. Caldwell has announced, and investigate the amounts.

Mr. HARRIS. It will not take half so long to take the Session Laws as it would to go on with this discussion about warrants.

Mr. CALDWELL. I have done both things. That is, I undertook to—that is go by the appropriations, and it was personally known to me there had not been an expenditure of the money appropriated; and it was known to me that when you did get an appropriation it didn't indicate what the respective institution had cost the Territory, so I went to work for the purpose of discovering precisely what they have cost the Territory; and that is shown exactly down to the penny by these reports of which I speak.

Mr. CAMP. The gentleman who spoke last gives a statement that the amount of bonded indebtedness of North Dakota institutions is about \$433,000; the total amount expended about \$466,000; that leaves a balance of about \$33,000 which would indicate by his way of figuring it, the amount of direct appropriations to those institutions. Now, the amount of direct appropriations made by

the Legislature for permanent improvements is, including the \$22,000 which he includes, \$60,000. Now, I don't think any gentleman present will believe for a moment that the three institutions of North Dakota have left unexpended balances of general appropriations to the amount of \$33,000 in the Treasury or anything like it. I believe the statement shows that there is a mistake, that there is an error in figuring from the Auditor's reports. I have not the slightest doubt that a man can go to work and from the Auditor's reports find out just what amounts have been expended from the general appropriations for improvements and construction; but it takes a very careful examination to do it, for the reason that you must figure up the premium on bonds; you must know just what balances from the bonds are remaining on hand. It would have to come out, as Mr. HARRIS stated. Supposing bonds issued for \$50,000, and they sell at a premium of \$2,000; there is \$52,000. Then, there is a general appropriation made for running and permanent improvements of \$500. Well, take up the Auditor's reports and it shows the list of warrants issued for construction and permanent improvements on that institution of \$52,500. Mr. CALDWELL subtracts the bonds from that and it leaves \$2,500, amount appropriated for that institution out of the general fund. It is absolutely wrong, because if the general appropriation has been used up, the balance in the treasury, when South Dakota assumes that institution, it is entitled to. I believe it is a very hard task to obtain from the Auditor's reports the exact amount appropriated and expended for those institutions out of the general fund.

Mr. KELLAM. I came to discharge this work, perhaps, as poorly qualified with experience with public institutions—what they had cost and what would be a fair and reasonable settlement between the two sections of Dakota with reference to them—as perhaps any man in either of these Commissions—in either part of this Joint Commission. I had a general idea and I still have it, as I expressed at the opening of the work of this Commission, that the only way in which we can arrive at a satisfactory settlement and possibly a settlement at all, is to do it in a general way without any effort upon the part of either side to be mathematically correct in all results. You know if we are to figure the exact cost of each one of these institutions and then turn it over to the new state within whose boundaries it is located, then to be fair we must make an inventory of the value of that property when it is so

turned over. The institutions of South Dakota, as stated by Mr. PURCELL, have been running many years, have served the entire Territory. Of course, it is a fact that all understand, one as well as another, that the longer a building stands, the older it is in the ordinary way, it will depreciate. Now if we are to make a mathematical investigation of exactly what each one of these institutions has cost, and make that a basis upon which to settle these matters, then must we not further go into the work of inventorying the valuation of these institutions, how much each one has depreciated by the use which it has been put to for the benefit of the entire Territory? Of course, each section has had some use of these institutions. Then to go still farther, would it not be necessary to make exactly a mathematically correct disposition of this matter, to see where the taxes came from that paid for these institutions. I only suggest this in a general way, and if it involves the labor of a week, we have come here to do it; or three months, we have come here to do it. There is nothing for us to do except to agree upon some plan and go to work and do that and get at the end. But my judgment is I have not got a head for figures. The only way we can avoid differences that will be, as they seem to me now well nigh unsurmountable, will be in a general way, honorable to both sides and fair to both sides, if we can conclude what it is, and dispose of these institutions and the debts that are upon them. I just came here with the idea that the appropriations from the general fund for the construction of these institutions would be in favor of South Dakota; that there had been more taken out of the general fund for the construction of South Dakota institutions than for North Dakota institutions. I had no idea how much. But I think all these years when the South Dakota institutions were the only institutions in the Territory and were serving the purpose of the entire Territory that they greatly depreciated in value and were not worth so much; that it would be fair to let South Dakota take its institutions, pay its bonds; and North Dakota take its institutions and pay its bonds. I don't mean to say I think this is fair towards either State, but I came here with that in my mind, that a general broad gauge way of disposing of this question would be fair for both States.

Mr. PURCELL. It is true, as you have suggested, that prior to the erection of public institutions in North Dakota the whole Territory had a right to the use of the buildings erected in the

South; but the basis upon which we figure—we don't figure the appropriations made to maintain those institutions, and, therefore the use of the institution during the time it has been a Territory is not taken into consideration, for the reason that the whole Territory contributed towards the maintenance. Now, as to the depreciation in value of these institutions. This has been indicated by the basis upon which Mr. CALDWELL suggested, because each year the Legislature has made appropriations for repairs, and therefore it is presumed the institutions are in as good condition to-day as when originally built, for the reason that whenever there has been a defect, application has been made to the Legislature, and it is for that purpose that the appropriation covering repairs has been made. It is true that the appropriations vastly exceed those made in the South to those made in North Dakota institutions, but we have not taken that; we have figured from the basis Mr. CALDWELL suggested—going for permanent improvements. And, therefore, if the appropriations made for improvements, and those appropriations were used in this respect, it is presumed the institutions are in as good condition to-day as when originally built.

Mr. KELLAM. Would you think this is true, with your knowledge, that a building of say ten years is as good as a new building?

Mr. PURCELL. Not as a general statement.

Mr. KELLAM. And many of these items charged against South Dakota are for repairs?

Mr. PURCELL. Yes.

Mr. KELLAM. Now you ask us to take the buildings at the original cost and pay for the repairs.

Mr. MCGILLYCUDDY. It is a fact, Mr. PURCELL, there are a few of these buildings in Dakota built five years ago, and you can build the same for 25 per cent. less.

Mr. KELLAM. I think that your suggestion, Mr. PURCELL, is perhaps, to make us pay what the buildings originally cost, and then when I suggest depreciation, you say that the appropriations from the general fund have kept up the repairs.

Mr. PURCELL. These institutions have had appliances, apparatus, etc., and it has therefore been continually increasing, and I would make a general proposition now, that there are not one of your institutions in South Dakota, or in the North, but what is worth more to-day than when originally built, because the repairs and improvements made enhance its value.

Mr. KELLAM. On that question I could not express an intelligent answer. I am not near any of these institutions, and know nothing about them only in a general way, that buildings by their use do depreciate, and that these buildings up to this time—that these institutions are the institutions of the entire Territory, and each section has the equal use of them. Now if we take these institutions at what they cost, the party taking the older institutions will suffer most.

Mr. PURCELL. Your institutions are not very aged. The appropriations for Sioux Falls Penitentiary were made in 1881, some in 1876; Hospital for Insane, 1879, in 1881 and 1883; and your University at Vermillion in 1883; Agricultural College in 1887. So a great many of them have been recent.

Mr. KELLAM. But of course we all know that upon a building costing \$100,000 the percentage of depreciation would have to be very small to make a difference of ten, fifteen or twenty thousand dollars; that in case of a dwelling house or a business house of any kind, that there is a certain depreciation.

Mr. PURCELL. Of course we did not take into consideration the amount of labor performed, and I understand there has been fifteen or twenty thousand dollars performed of that work by the prisoners alone, that don't show. You have got the benefit of that.

Mr. KELLAM. This discussion, gentlemen, only fortifies me in the thought that if we undertake to start ourselves over this thing I cannot tell how long it will take to settle. I still believe that the right way to get at this thing is to do it in a broad gauge way.

Mr. HARRIS. South Dakota has had much the largest use of them and North Dakota paid half the taxes.

Mr. KELLAM. We would have to go into that also. I can see very plainly that South Dakota may have had greater appropriations; that would be very proper to be considered; then where did the money come from that started these institutions? I don't know where the balance lies. I don't know in whose favor or to whose disadvantage this would be, but I can see, I think, that the complication would be intricate and one thing lead to another.

Mr. HARRIS. I don't think there is a man in the room who wants to go into that business—I don't think there is one of us wants to go into that. It has been brought out in the informal discussion of this question and the methods by which it could be

done. We take exception, of course, to Mr. CALDWELL's method, and I think justly so to another method.

Mr. KELLAM. I want to say now that, as I intimated when I came here, and until Mr. CALDWELL suggested those figures, I supposed there had been more money used out of the general fund for South Dakota than for North Dakota. When Mr. CALDWELL made that suggestion of figures they surprised me, and I can see now very readily how he may have made the error. I was much surprised, because I supposed the fact was directly to the contrary.

Mr. NEILL. Mr. KELLAM's proposition was one of his own, and it was not the deliberate expression of the South Dakota Commission. It has occurred to some of us of the South Dakota Commission, and a great many others and to our Constitutional Convention, that the institutions being placed where they were, each State would be expected to assume its own proportion to the value received. Now a proposition was made something like this: That each state assume its own institutions for the debt upon it. Then there came in a very awkward matter of general appropriations, there being the debt as represented by the bonds issued to pay for those institutions. Now to deduct the amount of bonds in the case of each institution from the total cost, was not, I don't think, in Mr. CALDWELL's mind or in any of the rest of us to presume that all the bond money had been used in the construction of these institutions, etc. I simply entertained that proposition hoping he was simply drawing that balance to show that we were paying full value for the amount of bonds we were assuming, or in other words, to show the actual cost of these institutions or the actual worth of them to each State respectively. With regard to what the unexpended balances were, he took that method to show the cost and worth of these institutions to each State, because appropriations may have been made here by the Legislature at different times, and having been made they have never been supplied, and our only method of determining the actual cost of these buildings was by resorting to the warrants actually issued and paid. The statement we find in the Auditor's and Treasurer's reports. Now, the general principle of settlement remains the same. It seems to me fair and will avoid a great deal of work.

Mr. SCOTT. Mr. CALDWELL says further--we have bonded our institutions for \$100,000. We have not used the proceeds of those bonds, and we get, say \$25,000 from the Territory. Now we have got \$25,000 balance due us on our bonded indebtedness,

and we have that \$25,000 turned over to us, when you have really got the institution, which is worth \$100,000, and which has cost us \$25,000 out of the general treasury, and yet you want the \$25,000 surplus. Now, there is where it seems to me an error comes in on the basis of Mr. CALDWELL's figuring. Now, in addition to these unexpected balances, if there had been any appropriations the Treasurer's books show a credit of the amount appropriated; and if it has been used, has the appropriation been charged off, or does it still stand as a credit to the institution?

Mr. SPALDING. I was going to remark we were here to settle this as we would do our own business. Now, my idea was, the first thing for us to determine before entering into the calculation of the actual worth of any of these institutions—we don't know where the figures would fall—we should settle our basis. But we have branched into the cost of these institutions, and our arguments and our judgments seem to be more or less prejudiced. And it seems to me that the amounts are so great and the difference may be so great that the only way we can do is to figure on the value; that the only way we can base an estimate of what any of these institutions are worth will be presumably correct, as near as we can hope to arrive at, by figuring what they cost. If there have been frauds in South Dakota, there have been frauds in North Dakota. If there are any items we cannot determine accurately, any appropriations we cannot determine exactly what they were used for, if there are any in South Dakota, there are also some in North Dakota. They are only small amounts anyway. We can arrive nearly, it seems to me, and the only way, it seems to me, inasmuch as there are bonds outstanding, to strike a balance. Now in regard to the age of the institutions: They are all new institutions—the depreciation in value is very small—none over eight years old. It can be but a small depreciation in value; and when we get down to that basis, it seems to me about as far as we can go. I believe that if we were to go further it would show a vastly greater difference in favor of North Dakota than it may show now; but my idea would be not to follow it, for when we get the cost of an institution we have gone as far as anybody can expect us to do. Let it go at that.

Mr. CALDWELL. I was going to say in regard to the Treasurer's books, that there are simply two divisions of the funds of the Territory upon the Treasurer's books, one bond account and

the other general fund account. So it would be impossible to tell by an examination of the Treasurer's books as to the condition of these especial appropriations. The only way that can be determined is from the Auditor's books. The Auditor reports to the Legislature biennially the transactions of this office—gives in one part of his reports simply the warrants with the date and amount included under the heads as fixed in the appropriation bills. Then he continues his report with a general statement regarding that matter, the general summary; in that he groups the titles of these various items, as Agricultural College, construction, \$21,673.12—for the period ending November 30th, 1884. And, Hospital for Insane, \$3,666.20, etc. Hospital improvements, \$2,463.57.

Mr. SCOTT. Does it show whether that was paid out of the bond account or whether there was an appropriation?

Mr. CALDWELL. No, sir.

Mr. SCOTT. Does it show in any place?

Mr. CALDWELL. It would show probably a credit by bonds in the detail account.

Mr. PRICE. It occurs to me that we have been fruitful of only one thing, and that is, mere talk. It also occurs to me, from sentiments expressed by the Joint Commission, that there is only one way to arrive at a proper solution of the question. The gentlemen from North Dakota present one statement; Mr. CALDWELL, from the South, presents another statement. There is a wide difference apparently in these two statements as to the value of the public institutions, bonded indebtedness and cost of construction. Until we arrive at some definite conclusion as to what these institutions have cost, and the amount of bonds issued for the purpose of construction and as expended from the general fund, we perhaps can go on talking till "Gabriel blows his horn" and we will effect nothing. I am of the opinion, gentlemen, that there is but little difference in these figures, and I have watched the statements carefully. I know, personally, some things included in the statement made by the gentlemen from the other side are erroneous. The \$10,000 appropriation which has been referred to has never been expended. There are other matters that have not been expended. I want to move you, Mr. CHAIRMAN, that the Secretaries of this Commission be instructed to prepare, jointly, a report of the amount of bonds issued for each public institution in Dakota, the amount appropriated out of the general fund; and, also,

unexpended balances in favor of such institutions, and report to this Convention at its next session.

Mr. SPALDING. I second the motion.

Mr. KELLAM. The question is upon the motion of Judge PRICE. Are you ready for the question?

“Question; Question!”

Mr. KELLAM. Your motion is that the Secretaries of this Joint Commission prepare a statement and report to this Commission at its next session, giving the amount of bonds issued for each public institution in Dakota, and the amount of money expended or appropriated out of the general fund.

Mr. SCOTT. To what date?

Mr. HARRIS. Including the the Legislature of 1889.

Mr. CALDWELL. These unexpended balances bring it up to about the 12th of March.

Mr. HARRIS. Let them get everything except the Legislature of 1889. It states, the “Secretaries;” as you said, the “Secretaries.”

Mr. KELLAM. I presume Mr. HAYDEN is familiar with the books, and McCLAREN, also.

Mr. HARRIS. The appropriation will show just what it was for.

Mr. CALDWELL. It would be as Mr. PURCELL said; and there are some there it would be impossible to tell what part of it had been used unless we could get the warrant and examine the vouchers; and to do that, if we have a session to-morrow, these Secretaries will not be anywise near ready to report.

Mr. HARRIS. I think we can knock them out without any trouble. Appropriations made and expended for maintenance—

Mr. CALDWELL. You can't tell whether some are for ordinary supplies—you can't tell whether it is for paying a company for so many gallons, or per *diem*, or for meat, or pies, or for hydrants, etc., for the institution.

Mr. SPALDING. We want some of those things.

Mr. HARRIS. Those things we cannot determine we can wipe out.

Mr. KELLAM. The question is upon the motion of Judge PRICE. All in favor of the motion say aye; contray, no.

Mr. KELLAM. The motion prevails.

Mr. HARRIS. I move we adjourn.

Mr. KELLAM. Before the motion is put I want to say a word

very carefully in behalf of our own Commission. Two or three thoughts have occurred to me with reference to facilitating our work. We know we have been getting along slowly. We, of course, have come to stay, but we want to get away as soon as we can with due regard to this work, and if you gentlemen can arrange amongst yourselves for a longer session, or fix it in some way so as to give to this work as many hours as is possible, consistently with your duties above, I think it would oblige the Constitutional Conventions and both parties of this Joint Commission.

Mr. CAMP. I can meet in the morning or at night.

Mr. KELLAM. I was going to say, your Constitutional Convention only meets in the afternoon; in the future after we have the report of these Secretaries and a starting point, then, as far as you gentlemen can arrange to give us hours we will be obliged to you. We realize you have conflicting claims upon your time here.

Mr. SPALDING. I don't think it pays to come to figures now, but if we can get a basis, then when we get the figures it will not be but a few minutes.

Mr. KELLAM. The motion is to adjourn.

Mr. CAMP. If there is any business we can transact, any further talk we can have together that will bring us nearer a basis I am sure we are ready to spend an hour.

Mr. CALDWELL. It is a fact that the figures that are presented here, only thirty-four to thirty-five thousand difference, sixty-four thousand from ninety-nine thousand, my figures are about three thousand the other way, and I want to say that these figures are taken from the identical source from which these gentlemen will have to go, and there is no other source; and that it is demonstrated here that in one single lump \$10,000 that ought not to be there—\$10,000 for the Penitentiary at Sioux Falls, which never went on the Auditor's books. By looking over the Auditor's books there is only \$25,000 difference between us. I say take the figures Mr. PURCELL has presented here, and which figures I know are correct, and by taking off the \$10,000, why, there is all there is between us, and if we take and adopt that proposition, which is that each commonwealth take the institution within it, together with the balances that may be in its favor, and take and pay the bonds issued on account of that institution. Now, as I say, there is only—taking even the figures which Mr. PURCELL has submitted—there is only \$25,000 between us.

Mr. HARRIS. Our only objection is at the method in which you arrive at your totals.

Mr. CALDWELL. It was regardless of the figures that I made the proposition; and this matter of figures has cut no figure whatever in my judgment as to what is the best possible basis for us to adopt.

Mr. MCGILLYCUDDY. Appoint some committee to go into some room and come to some conclusion and refer it to this Commission to adopt.

Mr. KELLAM. If there is no objection the motion to adjourn is withdrawn. As I recollect the \$25,000 appropriation, I recollect, I think—for what institution was it?

Mr. PURCELL. For the Reform School, miscellaneous expense

Mr. KELLAM. Expenses don't absolutely include the idea of being improvements.

Mr. PURCELL. It might have been for improvements—water works. Section 137, there is \$9,000—

Mr. CALDWELL. That is an appropriation for maintenance—an appropriation for maintenance of our Reform School at Plankinton; section 136 is a matter of construction.

Calls of Mr. PRESIDENT; Mr. CHAIRMAN.

Mr. CALDWELL. This may sound somewhat—but I will agree to sit down with any two North Dakota gentlemen. But I believe we could take these two statements of figures and resolve them into the same identical thing.

Mr. SPALDING. I don't want to bother our brains over figuring the thing out, we have got our Secretaries to do that.

Mr. PURCELL. Said sum of \$12,000 or so much thereof as may be necessary shall be expended for the proper management and for them suitable officers, servants and for such other expenses as may be necessary.

Mr. HARRIS. That is not included.

Mr. KELLAM. Mr. PURCELL suggests it might be included.

Mr. CALDWELL. The construction is entirely different. There is maintenance and general expenses.

Mr. HARRIS. If there is nothing further I renew my motion.

Mr. CAMP. I would suggest that during the recess, if possible, each Commission consider the question of proposing to this Convention a basis of settlement which will cover the whole field of the Territorial assets, liabilities and indebtedness.

Mr. KELLAM. Just this one question, or as to library and property?

Mr. CAMP. Yes, of property of every kind except the archives and records.

Mr. HARRIS. I move we adjourn until 3 o'clock to-morrow.

Which motion prevailed and the Commission adjourned.

FOURTH DAY.

BISMARCK, *Friday, July 19, 1889.*

Commission met at 5 o'clock p. m., Mr. SPALDING in the Chair.

Mr. SPALDING. GENTLEMEN: What is your pleasure?

Mr. KELLAM. I think we are all interested in the report the Secretaries have to present to us, and they are ready to report.

Mr. SPALDING. I have not seen the report of the Secretaries, and didn't know as they had one.

"Statement of amount of bonds issued for each, premium, report of unexpended balances, etc."

Mr. HAYDEN. Taking South Dakota, the bonds for Yankton Asylum, \$206,954.79—the net amount that has been received for the bonds in cash and paid into the Treasury. There has been appropriated out of the general fund \$45,256.30; total \$252,211.09 for the Yankton Asylum. There is in that a bond fund still on hand, unexpended, of \$3,756.83; \$425.62 is unexpended up to the beginning of the present year; March some time, first of March, the time of the adjournment of the Legislature. Net cost of the institution, \$248,025.45.

Of the Reform School: Bonds and premiums, \$30.156. There is nothing appropriated for the Reform School, simply the indebtedness of \$30,156.00. There is still on the books a credit of \$156.00, they having simply used \$30,000 of bonds.

The School of Mines: Bonds and premiums, \$33,320. Appropriated for school, \$5,500—making a total of \$38,820, of which there is still on hand to credit of bond fund, \$179,91; and credit