

FIFTEENTH DAY.

Sioux Falls, Dakota, July 18th, 1889.

Two o'clock P. M.

Pursuant to adjournment, the Convention was called to order by the President.

Prayer was offered by Mr. Huntley as follows:

O Lord God, our Heavenly Father, we thank Thee for the privilege of once more taking up our duties for this day, We beseech of thee that Thou wilt guide and direct us in all that we undertake and that our labors this day may be pleasing in Thy sight and that we may do faithfully the duties Thou hast committed to us. Guide us by Thy spirit, bless us with Thy favor and when we have done, receive us back to Thyself to enjoy Thine everlasting favor. These blessings we ask for Christ's sake.

AMEN.

The minutes of the preceding day were read and approved.

At this point the call of the standing committees was proceeded with.

Mr. Humphrey: I did not hear the call of the Committee on Education and School Lands. Their reports are completed; they will be read tomorrow.

Under the Order of Business, reports of Standing Committees, the following reports were submitted.

Sioux Falls, South Dakota, July 18th, 1889.

MR. PRESIDENT:—

Your Committee on Compensation of Public Officers to whom was referred Section 2, of Article XXI, have considered the same and have compared said Section 2 of Article XXI, with the Sioux Falls Constitution and the Act of Congress, known as the "Omnibus Bill", and have instructed me to report the following as Section 2, of Article XXI of the Constitution, and that the same is in accordance with the Sioux Falls Constitution and the changes authorized by the Omnibus Bill.

SECTION 2. COMPENSATION OF PUBLIC OFFICERS.—The Gov-

ernor shall receive an annual salary of two thousand five hundred dollars; the Judges of the Supreme Court shall each receive an annual salary of two thousand five hundred dollars; the Judges of the Circuit Court shall each receive an annual salary of two thousand dollars; provided that the Legislature may, after the year one thousand eight hundred and ninety, increase the annual salary of the Governor and each of the Judges of the Supreme Court to three thousand dollars, and the annual salary of each of the Circuit Judges to two thousand five hundred dollars.

The Secretary of State, State Treasurer, and State Auditor, shall each receive an annual salary of one thousand eight hundred dollars; the Commissioner of School and Public Lands shall each receive an annual salary of one thousand eight hundred dollars; the Superintendent of Public Instruction shall receive an annual salary of one thousand eight hundred dollars; the Attorney General shall receive an annual salary of one thousand dollars; the compensation of Lieutenant Governor shall be double the compensation of a State Senator.

They shall receive no fees or perquisites whatever for the performance of any duties connected with their offices. It shall not be competent for the Legislature to increase the salaries of the officers named in this article, except as herein provided.

Respectfully submitted,

H. M. WILLIAMSON,
Chairman.

I. R. SPOONER,
J. A. FOWLES,
CHAUNCEY L. WOOD.

Sioux Falls, South Dakota, July 18, 1889.

MR. PRESIDENT:—

Your Committee on Public Accounts and Expenditures, to whom was referred Article XII, entitled, "Public Accounts and Expenditures," have considered the same and have compared said Article XII 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 XII 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 XII.

PUBLIC ACCOUNTS AND EXPENDITURES.

SECTION 1. No money shall be paid out of the Treasury except upon appropriation by law and on warrant drawn by the proper officer.

SEC. 2. The general appropriation bill shall embrace nothing but appropriations for ordinary expenses of the executive, legislative and judicial departments of the State, the current expenses of state institutions, interest on public debt, and for common schools

All other appropriations shall be made by separate bills, each embracing but one object, and shall require a two-thirds vote of all members of each branch of the Legislature.

SEC. 3. The Legislature shall never grant any extra compensation to any public officer, employe, agent or contractor after the services shall have been rendered or the contract entered into, nor authorize the payment of any claims or part thereof created against the State, under any agreement or contract made without express authority of law, and all such unauthorized agreements or contracts shall be null and void; nor shall the compensation of any public officer be increased or diminished during his term of office; provided, however, that the Legislature may make appropriations for expenditures incurred in suppressing insurrections or repelling invasions.

SEC. 4. An itemized statement of all receipts and expenditures of the public moneys shall be published annually in such manner as the Legislature shall provide, and such statement shall be submitted to the Legislature at the beginning of each regular session by the Governor with his message.

A. O. RINGSRUD,
J. V. WILLIS,
M. R. HENINGER,
J. G. DAVIES,
H. M. WILLIAMSON
JOHN SCOLLARD,
W. T. WILLIAMS.

Sioux Falls, Dak., July, 1889.

MR. PRESIDENT:—

Your Committee on Amendments and Revisions of the Constitution, to whom was referred Article 23, entitled, "Amendments and revisions of the Constitution," have considered the same and have compared said article 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 XXIII 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 XXIII.

AMENDMENTS AND REVISIONS OF THE CONSTITUTION.

SECTION 1. Any amendment or amendments to this Constitution may be proposed in either house of the Legislature and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered in their Journals, with the yeas and nays taken thereon, and it shall be the duty of the Legislature to submit such proposed amendment or amendments to the vote of the people at the next general election. And if the people shall ap-

prove and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become a part of this Constitution, provided, that the amendment or amendments so proposed shall be published for a period of twelve weeks previous to the date of said election, in such a manner as the Legislature may provide; and provided further, that if more than one amendment be submitted they shall be submitted in such a manner that the people may vote for or against such amendments separately.

SEC. 2. Whenever two-thirds of the members elected to each branch of the Legislature shall think it necessary to call a convention to revise this Constitution they shall recommend to the electors to vote at the next election for members of the Legislature, for or against a Convention; and if a majority of all the electors voting at said election shall have voted for a Convention, the Legislature shall, at their next session, provide by law for calling the same. The Convention shall consist of as many members as the House of Representatives and shall be chosen in the same manner, and shall meet within three months after their election for the purpose aforesaid.

Sioux Falls, South Dakota, July 18, 1889.

MR. PRESIDENT:—

Your Committee on Corporations Other Than Banking or Municipal", to whom was referred Article XVII, entitled "Corporations", have considered the same and have compared said Article 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 XVII of the Constitution and that the same is in accordance with the Sioux Falls Constitution and the changes therein authorized by the Omnibus Bill.

ARTICLE XVII.

CORPORATIONS.

SECTION 1. No corporation shall be created or have its charter extended, changed or amended by special laws except those for charitable, educational, penal or reformatory purposes, which are to be and remain under the patronage and control of the State; but the Legislature shall provide by general laws for the organization of all corporations hereafter created.

SEC. 2. All existing charters, or grants of special or exclusive privileges, under which a bona fide organization shall not have taken place and business been commenced in good faith at the time this Constitution takes effect, shall thereafter have no validity.

SEC. 3. The Legislature shall not remit the forfeiture of the charter of any corporation now existing nor alter or amend the same nor pass any other general or special law for the benefit of such corporation, except upon the condition that such corporation shall

thereafter hold its charter subject to the provisions of this Constitution.

SEC. 4. The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the Legislature from taking the property or franchises of incorporated companies and subjecting them to public use, the same as the property of individuals and the exercise of the police power of the State shall never be abridged or so construed as to permit corporations to conduct their business in such a manner as to infringe the equal rights of individuals or the general well being of the State.

SEC. 5. In all elections for directors or managers of a corporation, each member or shareholder may cast the whole number of his votes for one candidate, or distribute them upon two or more candidates as he may prefer.

SEC. 6. No foreign corporation shall do any business in this State without having one or more known places of business and an authorized agent or agents in the same upon whom process may be served.

SEC. 7. No corporation shall engage in any business other than that expressly authorized in its charter, nor shall it take or hold any real estate except such as may be necessary and proper for its legitimate business.

SEC. 8. No corporation shall issue stocks or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and indebtedness of corporations shall not be increased except in pursuance of general law nor without the consent of the persons holding the larger amount in value of the stock first obtained, at a meeting to be held after sixty days notice given in pursuance of law.

SEC. 9. The Legislature shall have the power to alter, revise or annul any charter of any corporation now existing and revocable at the taking effect of this Constitution, or any that may be created, whenever in their opinion it may be injurious to the cities of this State; in such a manner, however, that no injustice shall be done to the incorporators. No law hereafter enacted shall create, renew or extend the charter of more than one corporation.

SEC. 10. No law shall be passed by the Legislature granting the right to construct and operate a street railroad within any city, town or incorporated village without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied by such street railroad.

SEC. 11. Any association or corporation organized for the purpose or any individual, shall have the right to construct and maintain lines of telegraph in this State, and to connect the same with other lines; and the Legislature shall, by general law of uniform operation provide reasonable regulations to give full effect

to this Section. No telegraph company shall consolidate with, or hold a controlling interest in the stocks or bonds of any other telegraph company owning a competing line, or acquire by purchase or otherwise, any other competing line of telegraph.

SEC. 12. Every railroad corporation organized or doing business in this State under the laws or authority thereof shall have and maintain a public office or place in this State for the transaction of its business, where transfers of its stock shall be made, and in which shall be kept for public inspection, books in which shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock, and the amount owned by them respectively; the amount of stock paid in; and by whom; the transfer of said stock; the amount of its assets and liabilities, and the names and places of residence of its officers. The directors of every railroad corporation shall annually make a report, under oath, to the auditor of public accounts, or some officer or officers to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law, and the Legislature shall pass laws enforcing by suitable penalties the provisions of this section.

SEC. 13. The rolling stock and all other movable property belonging to any railroad company or corporation in this State shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals, and the Legislature shall pass no laws exempting such property from execution and sale.

SEC. 14. No railroad corporation shall consolidate its stock, property or franchise, with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice, given at least sixty days to all stockholders, in such manner as may be provided by law. Any attempt to evade the provisions of this section, by any railroad corporation, by lease or otherwise, shall work a forfeiture of its charter.

SEC. 15. Railways heretofore constructed, or that may hereafter be constructed, in this State, are hereby declared public highways, and all railroad and transportation companies are declared to be common carriers and subject to legislative control; and the Legislature shall have power to enact laws regulating and controlling the rates of charges for the transportation of passengers and freight as such common carriers from one point to another in this State.

SEC. 16. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points within this State, and to connect at the State line with railroads of other states. Every railroad company shall have the right with its road to intersect, connect or cross any other

railroad, and shall receive and transport each other's passengers, tonnage and cars, loaded or empty, without delay or discrimination.

SEC. 17. The Legislature shall pass laws to correct abuses and prevent discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this State, and enforce such laws by adequate penalties, to the extent, if necessary for that purpose, of forfeiture of their property and franchises.

SEC. 18. Municipal and other corporations and individuals invested with the privilege of taking private property for public use shall make just compensation for property taken, injured or destroyed by the construction or enlargement of their works, highways or improvements, which compensation shall be paid or secured before such taking, injury or destruction. The Legislature is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages against any such corporation or individuals, made by viewers or otherwise; and the amount of such damages in all cases of appeal shall on the demand of either party, be determined by a jury, as in other civil cases.

SEC. 19. The term corporations, as used in this article, shall be construed to include all joint stock companies or associations having any of the powers or privileges of corporations not possessed by individuals or partnerships.

Sioux Falls, Dakota, July 17, 1889.

MR. PRESIDENT:—

Your Committee on Bill of Rights, to whom was referred Article VI, entitled "Bill of Rights" have considered the same and have compared said Article VI 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 VI of the Constitution and the changes thereto authorized by the Omnibus Bill, to-wit: In Section Twenty-six where the words "State of Dakota" appear it shall be altered so as to read "State of South Dakota."

COMMITTEE ON BILL OF RIGHTS.

J. R. SPOONER,
Chairman.

ARTICLE VI.

BILL OF RIGHTS.

SECTION 1. All men are born equally free and independent, and have certain inherent rights, among which are those of enjoying and defending life and liberty, of acquiring and protecting property and the pursuit of happiness. To secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.

SEC. 2. No person shall be deprived of life, liberty or property without due process of law.

SEC. 3. The right to worship God according to the dictates of conscience shall never be infringed. No person shall be denied

any civil or political right, privilege or capacity on account of his religious opinions; but the liberty of conscience hereby secured shall not be so construed as to excuse licentiousness, the invasion of the rights of others, or justify practices inconsistent with the peace or safety of the State. No person shall be compelled to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious establishment or mode of worship. No money or property of the State shall be given or appropriated for the benefit of any sectarian or religious society or institution.

SEC. 4. The right of petition, and of the people peaceably to assemble to consult for the common good and make known their opinions, shall never be abridged.

SEC. 5. Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that right. In all trials for libel, both civil or criminal, the truth, when published, with good motives or justifiable ends, shall be a sufficient defense. The jury shall have the right to determine the fact and the law under the direction of the court.

SEC. 6. The right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy, but the Legislature may provide for a jury of less than twelve in any court not a court of record, and for the decision of civil cases by three-fourths of the jury in any court.

SEC. 7. In all criminal prosecutions the accused shall have the right to defend in person and by counsel; to demand the nature and cause of the accusation against him; to have a copy thereof; to meet the witnesses against him face to face; to have compulsory process served for obtaining witnesses in his behalf, and to a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

SEC. 8. All persons shall be bailable by sufficient sureties, except for capital offenses when proof is evident or presumption great. The privilege of the writ of habeas corpus shall not be suspended, unless in case of rebellion or invasion, the public safety may require it.

SEC. 9. No person shall be compelled in any criminal case to give evidence against himself or to be twice put in jeopardy for the same offense.

SEC. 10. No person shall be held for a criminal offense unless on the presentment or indictment of a grand jury, or information of a public prosecutor, except in cases of impeachment, in cases cognizable by county courts, by justices of the peace, and in cases arising in the army or navy, or in the militia when in actual service in time of war or public danger; provided, that the grand jury may be modified or abolished by law.

SEC. 11. The right of the people to be secure in their persons,

houses, papers and effects, against unreasonable searches and seizures shall not be violated, and no warrant shall issue but upon probable cause supported by affidavit, particularly describing the place to be searched and the person or thing to be seized.

SEC. 12. No EX POST FACTO law, or law impairing the obligation of contracts or making any irrevocable grant or privilege, franchise, or immunity, shall be passed.

SEC. 13. Private property shall not be taken for public use, or damaged, without just compensation as determined by a jury, which shall be paid as soon as it can be ascertained, and before possession is taken. No benefit which may accrue to the owner as the result of an improvement made by any private corporation shall be considered in fixing the compensation for property taken or damaged. The fee of land taken for railroad tracks or other highways shall remain in such owners, subject to the use for which it is taken.

SEC. 14. No distinction shall ever be made by law between resident aliens and citizens, in reference to the possession, enjoyment or descent of property.

SEC. 15. No person shall be imprisoned for debt arising out of or founded upon a contract.

SEC. 16. The militia shall be in strict subordination to the civil power. No soldier in time of peace shall be quartered in any house without the consent of the owner, nor in time of war, except in the manner prescribed by law.

SEC. 17. No tax or duty shall be imposed without the consent of the people or their representatives in the Legislature, and all taxation shall be equal and uniform.

SEC. 18. No law shall be passed granting to any citizen, class of citizens, or corporation, privileges or immunities which upon the same terms shall not equally belong to all citizens or corporations.

SEC. 19. Election shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage. Soldiers, in time of war, may vote at their post of duty in or out of the State, under regulations to be prescribed by the Legislature.

SEC. 20. All courts shall be open, and every man for an injury done him in his property, person or reputation, shall have remedy by due course of law, and right and justice, administered without denial or delay.

SEC. 21. No power of suspending law shall be exercised unless by the Legislature or its authority.

SEC. 22. No person shall be attainted of treason or felony by the Legislature.

SEC. 23. Excessive bail shall not be required, excessive fines imposed, nor cruel punishments inflicted.

SEC. 24. The rights of the citizens to bear arms in defense of themselves and the State shall not be denied.

SEC. 25. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, or in giving them aid or comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act or confession in open court.

SEC. 26. All political power is inherent in the people and all free government is founded on their authority, and is instituted for their equal protection and benefit, and they have the right in lawful and constituted methods to alter or reform their forms of government in such manner as they may think proper. And the State of Dakota is an inseparable part of the American Union and the Constitution of the United States is the supreme law of the land.

SEC. 27. The blessings of a free government can only be maintained by a firm adherence to justice, moderation, temperance, frugality and virtue, and by frequent recurrence to fundamental principles.

MR. PRESIDENT:—

Your Committee on Municipal Corporations to whom was referred Article X, entitled, "Municipal Corporations", have considered the same and have compared said Article X 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 X of the Constitution and that the same is in accordance with the Sioux Falls Constitution and the changes thereto authorized by the Omnibus Bill.

DAVID HALL,
H. L. FELLOWS,
J. F. WOOD,
GEO. C. COOPER,
J. ATKINSON,

ARTICLE X.

MUNICIPAL CORPORATIONS.

SECTION 1. The Legislature shall provide by general laws for the organization and classification of municipal corporations. The number of such classes shall not exceed four and the powers of each class shall be defined by the general laws, so that no such corporations shall have any powers, or be subject to any restrictions other than all corporations of the same class. The Legislature shall restrict the power of such corporations to levy taxes and assessments, borrow money and contract debts, so as to prevent the abuse of such power.

SEC. 2. Except as otherwise provided in this Constitution, no tax or assessment shall be levied or collected, or debts contracted by municipal corporations, except in pursuance of law, for public

purposes specified by law; nor shall money be raised by taxation, loan or assessment, for one purpose, ever be diverted to any other.

SEC. 3. No street passenger railway or telegraph or telephone line shall be constructed within the limits of any village, town or city without the consent of its local authorities.

Mr. President: The report of the Committee on Compensation of Public Officers is before the Convention; what will the Convention do with the report?

Mr. Sterling: I move it be made a special order for tomorrow's session.

Which motion prevailed.

•The President: The report of the Committee on Amendments and Revision of the Constitution is before the Convention; what will you do with this report?

Mr. Willis: I move that the remainder of the reports of Standing Committees as made today be made a special order for tomorrow.

Which motion prevailed.

The President: What is the further pleasure of the Convention; the Convention has a special order for this hour?

Report of the Committee on Rights of Married Women was read by the Clerk.

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

Which motion was duly seconded.

Mr. Humphrey: I am not fully satisfied with the form of the report; though I would not knowingly cast upon the Committee any reflection as I am one of them. I neglected to confer with the Committee in regard to it. The point I have in mind is simply this; we are not here to draft an article or section of the Constitution, as stated in this report, in compliance with the Constitution and the Omnibus Bill; we are here only for the purpose, under restrictions, to draft such changes and amendments as are required by the provisions of the Omnibus Bill. This report here, purports to be simply a section of the proposed Constitution which they inform us in their report is in compliance with the Constitution and the Omnibus Bill; that the people are without any knowledge that it is the original Constitution; the point is that every report of the Standing Committees should clearly and plainly show what changes if any, are made in the Constitution by their report.

Mr. Jolley: I do not understand that this report, handed

in yesterday by the Committee on Rules, is ironclad; only they want some uniform report; they can report in addition to that any change that is made. The gentleman from Faulk County can, if he wishes, lumber up the record; they have the right to do it; nothing to stop them; no rule, made by a committee of this Convention can stop them; if each Committee report that they have compared this article with the Sioux Falls Constitution and have made such changes as are authorized by the Omnibus Bill, if in addition to that they want to go into detail and show what changes they have made, I do not know any rule to preclude them.

Mr. Humphrey: They do not show that there is any changes, or that it is in accordance with the Constitution. "And have instructed me to report the following as section" so and so, "which is in compliance with the Constitution and Omnibus Bill"! No, Mr. President, I do not desire to lumber or cumber up the records of our Journal, but I do hold that the Journal ought to show to those whenever reading it say a hundred years from now, any amendment made in the Constitution. It seems to me to take this report where it ends and add, "And we report the following changes and amendments" (then truly state what they are) and then let the form read as follows: "Your Committee respectfully recommend the amendments", etc. We are not here to adopt that Constitution we are here for its revision, and if the report follow the words, "We are instructed to report the following changes and amendments" (briefly state them) and then state that the article as amended will read as follows,—then recommend the adoption of the amendment in the submission of the article.

The President: Is the Convention ready for the question? It is moved that the report of the Committee be adopted.

The motion, reaching a vote, was duly carried and the report of the Committee on Rights of Married Women was duly declared adopted.

Mr. Humphrey: I move you that the report of Standing Committees be required to clearly and plainly show what, if any, changes and amendments of the Constitution are proposed.

Mr. Hole: I move that the resolution be referred to the Committee on Rules.

Which motion prevailed.

Mr. Sterling: I move you, Sir, that the report of the Committee

on Rights of Married Women just adopted, be referred to the Committee on Arrangement and Phraseology.

The President: I do not think it is necessary for the Convention to so order; it would go there if it is not ordered.

Mr. Sterling: I may be mistaken; my opinion is the reports should go to the Committee on Arrangement and Phraseology and after that Committee report that there should be a vote taken on the Constitution as a whole and upon that the ayes and nays should be called and we should pass it as upon the final passage of a bill in any body.

Mr. Davies: I move that we adjourn.

Which motion prevailed and the Convention was adjourned until Friday, July 19th, 1889, at two P. M.

