

TWENTY-NINTH DAY.

Hall of the Constitutional Convention, Sioux Falls, Dakota, August 1st, 1889.

Two o'clock P. M.

Convention called to order by President Edgerton.

Prayer by Chief Clerk, Mr. Burdick:

Our Father in Heaven, we thank Thee for thy preserving care. We thank Thee for health, life and happiness that are ours. Grant that today we may do that that shall be pleasing in Thy sight and the business that shall be transacted by this Convention today, may it meet with Divine approval. Grant that whatsoever be done, may be done with an eye to the best interests of the people. Bless us all for Christ Jesus' sake.

AMEN.

The President: The reading of the Journal will be next in order.

The Clerk, at this point, reads the Journal.

The President: Col. Jolley, has the Journal been approved?

Mr. Jolley: Yes, Sir.

Mr. Jolley: I move that the Convention do now take a recess until eight o'clock this evening. There are two reasons for making the motion. The first, the Joint Commission will be here at that time. The further reason that when we adjourned Friday night there was an agreement made between the Committee on Schedule and Mr. Sterling, to move that the rest of the report be taken up today. I move that we take a recess until eight o'clock this evening.

The President: I suggest Colonel that we dispose of the few very short matters first.

Mr. Jolley: I withdraw the motion, with the consent of my second.

Mr. Davies: I move the President appoint a Committee of

five to secure the publication of the Constitution and Schedule as ordered by the Convention.

Which motion received a second.

The President: As many as are of the opinion that the resolution be adopted, say aye. The ayes appear to have it. The ayes have it.

A communication relative to artesian wells was read by the Clerk, signed by John J. Cushing.

The President: The communication will be referred to the Committee on Judiciary.

A communication was read from John J. Cushing, of Rapid City, S. D., under date of July 27th, relative to name of the proposed new state, signed by J. M. Simmons.

The President: Referred to the Committee on Name, Boundary.

Mr. Jolley: I renew my motion to take a recess until eight o'clock this evening.

The President: The motion was made and duly seconded that the Convention do now take a recess until eight o'clock this evening. Those favoring this motion please make it known by saying aye; those opposed say no. The ayes appear to have it; the ayes have it and the Convention stands adjourned until eight o'clock this evening.

Hall of the Constitutional Convention, Sioux Falls, Dakota, August 1st, 1889.

Eight o'clock P. M.

The President: The Convention will come to order.

Mr. Edgerton: (of Yankton): Mr. President, I have a resolution I wish to offer and move its adoption.

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

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

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

RESOLVED, That a copy of these resolutions be transmitted by our presiding officer to the Hon. Benjamin Harrison, President of the United States.

The President: Gentlemen, you have heard the resolution offered by the gentleman from Yankton. Is the Convention ready for action? Those favoring the resolution as read, will make it known by saying aye; those opposed by saying no. The ayes appear to have it; the ayes have it; the resolution is adopted. What is the further pleasure of the Convention.

Mr. Wescott: I move that when we adjourn tonight it be until tomorrow morning at nine o'clock.

Which motion received a second.

The President: Those favoring the motion that when the Convention adjourn, it adjourn to meet tomorrow morning at nine o'clock, say aye; those opposed say no. The ayes have it and the motion prevails.

The President: I will announce the Committee on Printing the Constitution in pursuance to the resolution passed this afternoon. Mr. Davies, of Edmunds; Mr. Stroupe, of Brown; Mr. Zitka, of BonHomme; Mr. Edgerton, of Yankton; Mr. Ringsrud, of Union.

Mr. President: Unless otherwise ordered the consideration of the report of the Committee on Ordinance and Schedule. will be resumed. If I remember rightly, I may be mistaken, if I remember rightly the motion of Mr. Hole, the Chairman of the Committee was that the balance of the report be adopted.

Mr. Jolley: That motion was ruled out of order.

Mr. Hole: I think we adjourned with that motion before the House. I would ask now to withdraw the motion and that we reconsider the balance of the report section by section instead of as a whole. I would now move, that section 8 be adopted.

The President: The Clerk will read Section 8.

The Clerk reads as follows: Sec. 8. Immediately after the election herein provided for, the judges of election at each polling place, shall make a true and complete count of all the votes duly cast at such election, and shall certify and return the result of the same with the names of all candidates, and the number of votes cast for each candidate and the number of votes cast for and against the Constitution, and the number of votes cast for and against Prohibition, and the number of votes cast for and against Minority representation, and the number of votes cast for each city, town or

place, for the temporary seat of government, to the County Clerk or Auditor of their respective counties, together with one of the poll lists and election books used in said election."

The President: Gentlemen, the question is upon the adoption of Section 8 as read. Those favoring the adoption of Section 8 make it known by saying aye; opposed, if any, by saying no. The ayes appear to have it; the ayes have it and Section 8 is adopted.

Mr. Hole: I move that Section 9 be adopted.

The President: The Chairman of the Committee moves that Section 9 be adopted. The Clerk will read.

The Clerk reads Section 9 as follows: "Within five days after the said election the several boards of county canvassers provided by law for the canvassing of the results of the election shall make and certify to the Secretary of the Territory of Dakota, the true and correct return of the total number of votes cast for the Constitution, and against the Constitution, of the number of votes cast for and against Prohibition, and the number of votes cast for and against Minority Representation, and the number of votes cast for each city, town or place as the temporary seat of government, and the number of votes cast for each person voted for at such election, except county officers and members of the Legislature and shall transmit the same to the Secretary of the Territory of Dakota, by mail, and shall file with the County Clerk or Auditor of each of said counties a duplicate and certified copy of said returns.

Said Board of County Canvassers shall issue certificates of election to the persons who shall have received the highest number of votes cast for the respective officers of judge of the county court, and representatives in the Legislature and for State Senator or Senators.

The President: The question before the Convention is the adoption of Section 9 as read in your hearing. Those favoring this motion make it known by saying aye; those opposed, if any, by saying no. The ayes appear to have it; the ayes have it and the motion prevails. Section 9 is adopted.

Mr. Hole: The same motion as to Section 10.

The President: The Clerk will read.

The Clerk: "Sec. 10. When two or more counties are connected in one senatorial or representative district, it shall be the duty of the Clerks and Auditors of the respective counties to attend at the office of the County Clerk of the senior county in date of or-

ganization, within twenty days after date of election and they shall compare the votes given in the several counties comprising such Senatorial and Representative district and such Clerks and Auditors shall immediately make out a certificate of election to the person having the highest number of votes in such district for State Senator or Representative or both, which certificate shall be delivered to the person entitled thereto on his application to the Clerk of the senior county or such district.

The President: The question recurs upon the adoption of Section 10 as read. Those voting in the affirmative will say aye; those voting in the negative will say no; the ayes have it, Section 10 is adopted

Mr. Hole: I make the same motion as to Section 11.

The President: The Clerk will read Section 11.

The Clerk: SEC. 11. The Secretary of the Territory shall receive all returns of election transmitted to him as provided, and shall preserve the same, and after they have been canvassed as hereinafter provided, and after the admission of the State of South Dakota into the Union, he shall deliver said returns to the proper State officers of said State of South Dakota.

Within fifteen days after said election, the Secretary of the Territory, with the Governor, and Chief Justice thereof or any two of them, shall canvass such returns, and certify the same to the President of the United States as provided in the Enabling Act.

They shall also ascertain the total number of votes cast at such election for the Constitution and against the Constitution; the total number of votes cast for and against prohibition, and the total number of votes cast for and against Minority Representation; and the total number of votes cast for each city, town or place as the temporary seat of government"; and the total number of votes cast for each person voted for, for any office at said election, excepting County Judge and members of the Legislature, and shall declare the result of said election in conformity with such vote, and the Governor of the Territory shall thereupon issue a proclamation at once thereof.

They shall also make and transmit to the State Legislature, immediately upon its organization a list of all of the State and Judicial officers who shall thus be ascertained to be duly elected.

The various County and District Canvassing Boards shall make and transmit to the Secretary of the Territory, the names of all persons declared by them to be elected members of the Senate and House of Representatives of the State of South Dakota; he shall make separate lists of the Senators, and Representatives so elected, which lists shall constitute the rolls under which the Senate and House of Representatives shall be organized.

The Governor of the Territory shall make and issue certificates of election to the persons who are shown by the canvass to have received the highest number of votes for Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, Attorney General, Superintendent of Public Instruction, Commissioner of School and Public Lands, and Judges of the Supreme and Circuit Courts. Such certificates to be attested by the Secretary of the Territory.

The President: The question is upon the adoption of Section 11. Those favoring the adoption of this section as read, make it known by the usual sign; those opposed, by saying no. The ayes appear to have it. The ayes have it, Section 11 is adopted.

Mr. Hole: I move you that Section 12 be adopted.

The Clerk: "Sec. 12. The apportionment made in this Constitution shall govern the election above provided for, for members of the State Legislature until otherwise provided by law.

At the first election held under this ordinance for Senators and Representatives of the Legislature there shall be elected forty-five Senators and one hundred and twenty-four Representatives in the State Legislature respectively."

The President: It is moved that Section 12 be adopted. Those voting in the affirmative will say aye, those voting in the negative will say no. The ayes have it. Section 12 is adopted.

Mr. Hole: I move that Section 13 be adopted.

The President: The Clerk will read.

The Clerk: "Sec. 13. The Legislature elected under the provisions of this ordinance and the Constitution shall assemble at the temporary seat of government on the 3rd Tuesday in October, in the year A. D., 1889, at 12 o'clock noon, and on the first day of their assemblage the Governor and other State officers shall take the oath of office in the presence of the Legislature. The oath of office shall be administered to the members of the Legislature, and to the State officers by the Chief Justice of the Territory, or by any other officer duly authorized by the laws of the Territory of Dakota to administer oaths."

The President: The Convention is now about to vote upon the adoption or rejection of Section 13. Those favoring the motion say aye; those favoring or voting in the negative say no. The ayes appear to have it; the ayes have it. Section 13 is adopted.

Mr. Hole: The same motion as to Section 14.

The Clerk: "Sec. 14. Immediately after the organization of the Legislature and taking the oath of office by the State officers,

the Legislature shall then and there proceed to the election of two Senators of the United States for the State of South Dakota, in the mode and manner provided by the laws of Congress for the election of the United States Senators. And the Governor and Secretary of State of South Dakota shall certify the election of the said Senators, and two Representatives in Congress in the manner required by law."

The President: The question recurs upon the adoption of Section 14 of the report of the Committee on Schedule and Ordinance. Those favoring this motion will make it known in the usual manner. Those opposed, in the same way. The ayes appear to have it; the ayes have it. Section 14 is duly adopted.

Mr. Hole: I move that Sections 15 and 16 be adopted.

The Clerk: SECTION 15. Immediately after the election of the United States Senators as above provided for, said Legislature shall adjourn to meet at the temporary seat of government on the first Tuesday after the first Monday of January, 1890, at 12 o'clock M.

Provided, however, that if the State of South Dakota has not been admitted by proclamation or otherwise at said date, then said Legislature shall convene within ten days after the date of admission of the State into the Union.

SEC. 16. Nothing in this Constitution or Schedule contained shall be construed to authorize the Legislature to exercise any powers except such as are necessary to its first organization, and to elect United States Senators, and to adjourn as above provided.

Nor to authorize an officer of the Executive, Administrative or Judiciary Departments, to exercise any duties of his office until the State of South Dakota shall have been regularly admitted into the Union excepting such as may be authorized by the Congress of the United States.

The President: Gentlemen, the motion before you now of the gentleman from Beadle, is upon the adoption of Sections 15 and 16 of the report under consideration. Are you ready for the question? Those supporting the motion will make it known by saying no. The motion prevails. Sections 15 and 16 are adopted.

Judge Corson: I desire the gentleman to withdraw 17. I may be mistaken.

Mr. Hole: I move that Section 17 be adopted.

The Clerk: SEC. 17. "The ordinances and Schedule enacted by this Convention shall be held to be valid for all the purposes thereof."

The President Those favoring the adoption of Section 17 will vote aye; those opposed will say no. The ayes appear to have it; the ayes have it. Section 17 is adopted.

Judge Corson: I move to add after the 4th subdivision of Section 18 a subdivision numbered "5" which is as follows: "Fifth. That jurisdiction is ceded to the United States over the military reservations of Ft. Meade, Ft. Randall, and Fort Sully, heretofore declared by the President of the United States; provided legal process, civil and criminal, of this State shall extend over such reservations in all cases of which exclusive jurisdiction is not vested in the United States, or of crimes not committed within the limits of such reservations." I will in this connection ask the Clerk to read a letter of the Commanding General of this Department.

The Clerk reads:

Headquarters Dept. of Dak, St. Paul, Minn., July 25th 1889.
TO THE PRESIDING OFFICER OF THE CONSTITUTIONAL CONVENTION
OF SOUTH DAKOTA:

SIR:—

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

Very respectfully your obedient servant,

THOS. H. RUGER,
Brigadier-General Commanding.

Mr. Corson: I will state that this letter came to us through the hands of Lieutenant Fowler, one of the staff. It seems that the object is to prevent conflict of jurisdiction between the State authorities and the United States authorities over these reservations; a matter that has given the United States some trouble in certain localities; and they desire to avoid it here. I suppose there will be no objection to conceding this jurisdiction, as it is generally done in all cases where it is requested. This is an oversight. It is usual in enabling acts to provide for this, but through some oversight it was neglected in ours. Hence, the Department has deemed it of sufficient importance to engraft it in our Constitution. I will therefore move that the amendment be adopted.

Which motion received a second.

Mr. Jolley: I will call attention, gentlemen, to this fact, this Section 18—and the reason why it was put in this Schedule is this: That the Enabling Act said, that we should by ordinance make such a provision as this and in order to comply with the Enabling Act this was put in the Schedule by the Committee. There is also, I will inform the gentleman further always just such a provision in a Constitution under the head of Compact with the United States; I think that it would have very little force in this Schedule. The amendment offered by the gentleman from Lawrence may be regular, but I think the better course would be to make the compact with the United States in the Constitution and add it there, and in so doing add it in both places.

Mr. Corson: I hardly think that would be necessary, one compact has been adopted and enrolled and it would make considerable changes now to incorporate it in that provision. I believe it might be satisfactory to place it as contemplated in this amendment. I do not think there can be any objection.

Mr. Hole: I would like to hear the amendment read again.

The Clerk reads the amendment as desired.

The President: Those of the opinion that the amendment should be adopted say aye; those opposed say no. The ayes have it. The question now recurs on the adoption of Section 18 as amended. The Clerk will read Section 18 with the amendment.

The Clerk: SEC. 18. That we, the people of the State of South Dakota, do ordain:

First: That perfect toleration of religious sentiment shall be secured, and that no inhabitant of this State shall ever be molested in person or property on account of his or her mode of religious worship.

Second: That we, the people inhabiting the State of South Dakota do agree and declare, that we forever disclaim all right and title to the unappropriated public lands lying within the boundaries of South Dakota; and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States.

That the lands belonging to the citizens of the United States residing without the said State shall never be taxed at a higher rate than the lands belonging to residents of this State. That no taxes shall be imposed by the State of South Dakota on lands or property therein belonging to or which may hereafter be purchased by the

United States, or reserved for its use. But nothing herein shall preclude the State of South Dakota from taxing as other lands are taxed any lands, owned or held by any Indian who has severed his tribal relation and has obtained from the United States, or from any person a title thereto by patent or other grant save and except such lands as have been, or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation, all such lands which may have been exempted by any grant or law of the United States shall remain exempt to the extent, and as prescribed by such Act of Congress.

Third: That the State of South Dakota shall assume and pay that portion of the debts and liabilities of the Territory of Dakota as provided for in this Constitution.

Fourth: That provision shall be made for the establishment and maintenance of systems of public schools which shall be open to all the children of the State and free from sectarian control.

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

These ordinances shall be irrevocable without the consent of the United States and also the people of said State of South Dakota, expressed by their Legislative assembly.

The President: Is the Convention now ready? Those favoring the adoption of the motion of the gentleman from Lawrence will say aye; and those opposed will say no. The ayes have it. Section 18 as amended, is adopted.

Mr. Hole: I move that Section 19 be adopted.

The Clerk: SEC. 10. The tenure of all offices, whose election is provided for in this Schedule on the first day of October, A. D., 1889, shall be as follows.

The Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, Attorney General, Superintendent of Public Instruction, Commissioner of School and Public Lands, Judges of County Courts, shall hold their respective offices until the first Tuesday after the first Monday in January, A. D., 1892, at twelve o'clock M. and until their successors are elected and qualified.

The Judges of the Supreme Courts and Circuit Courts shall hold their offices until the first Tuesday after the first Monday in January, A. D., 1894, at 12 o'clock M. and until their successors are elected and qualified, subject to the provisions of Section 26 of Article V of the Constitution.

The terms of office of the members of the Legislature elected

at the first election held under the provisions of this Constitution, shall expire on the first Tuesday after the first Monday in January, one thousand eight hundred and ninety-two. (1892).

Mr. Williams: I have an amendment to that Section just read; I will state my reasons for moving it.

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

Mr. Williams: I will move the adoption of the amendment of Section 19 as read which motion received a second.

The President: Mr. Williams moves to amend Section 19, as read. Is the Convention ready for the question?

Mr. Hoie: I would like to hear the amendment read again please.

The Clerk again reads the amendment.

Mr. Williams: My object in moving that amendment will occur to you upon half a moment's consideration. In the second clause of the Section as it now stands, Sec. 19, it provides that the Governor, Lieutenant Governor, Secretary of State, Auditor, Treasures, Attorney General, Superintendent of Public Instruction, Commissioner of School and Public Lands, Judges of County Courts, shall hold their respective offices until the first Tuesday after the first Monday in January, 1892. The fourth clause of the section provided the terms of office of the members of the Legislature elected at the first election held under the provisions of this Constitution shall expire on the first Tuesday after the first Monday in January, 1892. That section as it stands and Section 3 provides that the Judges of the Supreme and Circuit Courts shall hold their office until the first Tuesday after the first Monday in January, 1894, in fact, extends the time and provides that the tenure of office of the officers elected in this October election extends beyond the time of the term fixed by the Constitution. It goes beyond the necessity which this State is under after getting into the Union to tide over until an election can be held under the Constitution. I take it the only necessity by the provision of the Schedule and Ordinance is to extend over the time until the people vote after we become a State, until the State government can elect their State officers and no longer.

Further, the Constitution provides that the term of the Legislature of the members of the Legislature, shall be two years; it

further provides that the Legislature shall meet on the January following the election of each Legislature. This provides that the Legislature elected in October shall hold until January, 1892, and the first meeting of this Legislature will be in January, 1890. By the Constitution the Legislature must again assemble in January, 1892. And also by the terms of the Constitution the Legislature elect must assemble in January immediately following its election. Now, then, if the terms of the Legislators elected at this coming October election extends to 1892 the only way that the Constitutional provision can be complied with is by a general election in 1891; the Constitution provides that the Legislature shall assemble in January following its election. Thus offering an amendment to the Constitution—the Constitution provides for one election and only one, and that is a general election. We have upon our statute books of the Territory the law that the general elections occur on the even numbered years; it is undoubtedly intended the first general election after the admission of the State will occur in 1890; then at that time the Legislature must be elected again and will assemble in January, 1891 otherwise if this report is adopted there will have to be a general election provided for by the Legislature for 1891, and they must assemble in January following their election. The Legislature must convene every two years. That will consequently coerce the Legislature into providing an election for each year. This I take it is not in accordance with the wishes of the people; I take it, it is not in accordance with the Constitution.

The Constitution also provides that the length of term of office of the Supreme Court Judges that are elected at the first election under the Constitution shall be four years, and after that it is six years; and that the Legislature may provide by law for the election of the judges of the courts at a different time than at which other officers are elected; and in order that they may do this the Constitution gives the Legislature the power to extend or abridge the term of office of any officer then holding; but it nowhere indicates that this Convention even if it was in the provision of the Constitution to enact that, that this Convention by ordinance may prescribe for the term of office of either the State or County officers. The Judges of the Courts have a longer time than the Constitution prescribes. A constitution having fixed a time at which the Legislators must assemble,—the January following their election and only provided for the general election the necessary result is that

the Legislature must provide for a general election in 1891. And the result would be that we will hold a general election each year. This amendment that I have offered will work this way; it provides that the officers elect, that his office will hold over until January 1891, leaving it until the general election in 1890 to elect a full set of officers of County officers and State officers and Judges of the Courts. It will also leave it for the Legislature hereafter if the people demand it to provide for a general election every year, in which the Judges may be elected at different times than the other officers. I think it will meet with the hearty concurrence of the people at large of the Territory or the proposed State to provide only for the one election and if the officers were to hold until January, 1891.

Mr. Hole: Probably the foundation question in this is whether the officers elected this fall are elected under the Constitution. Some argue that the Constitution not being adopted that they cannot be elected. In answer to that we say if they are elected, and the Constitution falls, they fall with it. This is the proposition submitted to the people; the Constitution, if it stands, the officers are elected under its provisions and hold under its provisions of the Constitution. The Constitution provides in Section 1 of Article 4 that the Governor shall hold his office for two years, if we elect a Governor this fall under the provisions of this Constitution and I would say that the Schedule and Ordinance as passed provides that we do hold this election under the provisions of this Constitution, then we elect Governor and Lieutenant Governor under its provisions, it will quite naturally follow all officers elected shall serve their time out as provided by the Constitution. And to escape any possible trouble in this direction, it seemed safe and proper to your Schedule Committee to follow the provisions of the Constitution, knowing that we were in a different position from Constitutional Conventions, as a rule. We have only partial authority. This has been adopted and voted on by the people; we merely make the changes.

Again in Section 3. "The Governor and Lieutenant Governor shall be elected by the qualified electors of the State at the time and place of choosing the members of the Legislature." We choose the members of the Legislature in October; under the provisions of Section 3 we must elect the Governor and Lieutenant Governor at the same time and place. We can trace this through as to all the officers under the Constitution. In Section 8, Article 5. "The

term of the Judges of the Supreme Court, who shall be elected at the first election under this Constitution shall be four years." At the first election under this Constitution,—now if there is no election under the Constitution the Supreme Court Judges would naturally hold until there could be an election under the Constitution which might be in a few years or a year or two months. It has not seemed to the Committee advisable that the Judges of the Supreme Court of South Dakota elected for the first term should be elected for a short time. I think that that will be the conclusion, gentlemen, of every delegate here. That it is not desirable; that the Judges of the Supreme Court of our new State should be elected for so short a time.

In Section 15 of this same article we find "The State shall be divided into Judicial Circuits in each of which there shall be elected by the electors thereof one Judge of the Circuit Court therein whose term of office shall be four years." If you commence to cut down the time of these offices, this same difficulty runs through everything.

If you follow the provisions of this Constitution, it makes the terms of desirable length. The one thing that is not desirable is having an election every year instead of every two years; I cannot say that this will be desirable. You elect all the officers of the State and County and Circuit at one time, and there is so much opportunity for figuring the decision of many of our State is that they have found it undesirable. I think that those states who have divided the elections up have found it most desirable for good government.

Section 19 in regard to County Courts: "There shall be elected in each organized County a County Judge who shall be Judge of the County Court of said county, whose term of office shall be two years until otherwise provided by law." Our Schedule conforms to this. In Section 26, "The Judges of the Supreme Court, Circuit Courts, and County Courts shall be chosen at the first election held under the provisions of this Constitution, and thereafter as provided by law, and the Legislature may provide for the election of such officers on a different day from that on which an election is held for any other purpose and may, for the purpose of making such provision extend or abridge the term of office for any of such Judges then holding, but not in any case more than six months."

In Section 37 it provides for the appointment of officers which was discussed the other evening.

I think that these Sections,—Section 5 again of Article 9 provides: "In each organized county at the first election held after the admission of the State of Dakota into the Union", you will notice the different provision here, the next election provided for in Section 5 of Article 8 reads: "In each organized County."

Mr. Williams: May I ask a question? Does not that read, "The first general election"?

Mr. Hole: It does not so read in my book.

Mr. Humphrey; In the report of the Committee to compare and proof-read the Constitution the word "general" is found to be there.

Mr. Hole: This election is provided for after the admission of the State; the other elections referred to are provided for in the Constitution. I say, the intent of the makers of the Constitution was to make the officers superior to the adoption of the Constitution, while the provision for the State government to take the place of the Territorial government was after the adoption leaving the Territorial officers to hold until after the beginning. Section 5 provides for the County officers and those not provided for under the provisions of the election provided for under the Constitution. I think when you have considered this and read over these sections with the same care that your committee have, that you will arrive at this conclusion, that the only safe way is in taking the course to follow the chart. We have the Constitution as voted upon. That has been our conviction and while it may be desirable to many that the election should be every two years, as a personal matter, I think it is best the way it is. I think this is the intent of the framers of the Constitution and I think it is better.

Mr. Wood, of Pennington: I think the amendment should be divided into Sections to which the amendment refers, because it covers two dates, the date 1892 and 1894. I move you that the question raised by the amendment be divided.

Mr. Williams: I will accept that without putting it as a motion.

Mr. Sherwood, of Clark: I think the Chairman of the Committee has perhaps directed our attention to the chief question at issue,—whether we are holding this election under the provisions of the Constitution or under the Omnibus Bill. I think we are

holding the election under the provisions of the Omnibus Bill. At the present time the Constitution is without force. We stand in a somewhat different position from that of the Convention of 1885 in this matter from the fact that they had no Enabling Act to go by and perhaps the authority they had must have been that of the Legislature calling the Constitutional Convention. It appears to me, however, if the gentleman is correct in his theory that this election is being held under the Constitution that we may strike another trouble, and that is the qualifications of electors; if this is being held under the provisions of the Constitution and not under the Enabling Act, of course, then the provisions of the Constitution will prevail as to the qualifications of the voter; his rights, powers and duties will be governed by the Constitution in that election; the right of suffrage I apprehend no one will contend that for a moment because of Omnibus Bill especially provides what the qualifications of the voter shall be. Section 3 says, "That all persons who are qualified by the laws of said Territories to vote for Representatives to the Legislative Assembly thereof are hereby authorized to vote for and choose delegates to form Conventions in said proposed States; and the qualifications of delegates to such Conventions shall be such as by the laws of such Territories respectively persons are required to possess to be eligible to the Legislative Assemblies thereof; and the aforesaid delegates to form said Conventions shall be apportioned within the limits of the proposed States in such districts as may be established as herein provided, in proportion to the population in each of said Counties and Districts as near as may be, to be ascertained to the time of making said apportionments by the persons hereinafter authorized to make the same, from the best information attainable, in each of which districts these delegates shall be elected, but no elector shall vote for more than two persons for delegates to such Conventions; that said apportionments shall be made by the Governor, the Chief Justice, and the Secretary of said Territories; and the Governors of said Territories shall, by proclamation, order an election of the delegates aforesaid in each of said proposed States, to be held on a Tuesday after the second Monday in May, 1889, which proclamation, shall be issued on the 15th day of April, 1889; and such election shall be conducted, the return made, the result ascertained, and the certificates to persons elected to such Convention issued in the same manner as is prescribed by the laws of said Territories, regu-

lating elections therein for delegates to Congress; and the number of votes cast for delegates in each precinct shall also be returned. The number of delegates to said Conventions, respectively, shall be seventy-five, and all person residents in said proposed States who are qualified voters of said Territories as herein provided, shall be entitled to vote upon the election of delegates and under such rule and regulations as said Conventions may prescribe, not in conflict with this act upon the ratification or rejection of the Constitution. In this case, the Omnibus Bill claims to provide for this election, and any person shall be entitled to vote who is entitled to vote for members of the Legislature under the laws of the Territory. Believing that if this election is under the Constitution that there could possibly be a conflict between the Omnibus Bill and the Constitution I do not think there is a good reason for the amendment. I am therefore opposed to this amendment.

Mr. Hartley: As a member of that Committee I would like to say a word. This matter, by direction of the Committee, was submitted to a sub-committee of which I was a member. I drew the original draft of this Schedule. I had embodied in it, substantially, Mr. Williams' amendment. By vote of the Committee it was changed as reported. While I assented to the change, still I am of the same opinion that we have the power to regulate this matter and that we should so provide that these officers should be elected at the first general election and that in ascertaining what that general election means as used in the Constitution we should use the legal Territorial definition which I understand under the statute is to the effect that the general elections are held on the even numbered years. In my mind the framers of this report had that definition in view when they used this; and in order to bring the election of these officers upon the first general election which if I would understand it would be in the year 1890. I am in favor of the amendment as proposed by Mr. Williams as relating to the second subdivision of Section 19, Schedule and Ordinance report.

"The Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, Attorney General, Superintendent of Public Instruction, Commissioner of School and Public Lands, Judges of County Courts, shall hold their respective offices until the first Tuesday after the first Monday in January, A. D., 1892, at twelve o'clock, M., and until their successors are elected and qualified.

Mr. Price: I am not prepared to discuss this question tonight;

I am not, this evening, even prepared to intelligently vote upon it. It occurs to me, however, that the proposed amendment to the original article is worthy of careful study and thoughtful consideration of the members of this Convention and from the diversity of opinion expressed in these debates I would say, this Convention is not ready to vote upon it at this time. I have no doubt we all are anxious to go home, but this is a matter of such vast importance it should not be acted upon hastily. I therefore move you that further consideration of this report be postponed until tomorrow morning.

This motion received a second.

Mr. Davies: In view of the fact that we are drawing pretty near to the close of this Convention and this matter has been brought before the Convention several days ago and has been postponed until this night, it is not probable that more careful consideration will be given it if we should postpone it. I move to lay this motion upon the table.

Mr. Lee: I second the motion.

The President: The question before the Convention is upon the adoption of Section 19; to this the gentleman from Bon Homme moves an amendment. The gentleman from Hyde moves to postpone further action until tomorrow morning; the gentleman from Edmunds moves to lay the motion upon the table. Those favoring the motion to lay this amendment upon the table say aye; those opposed say no. The Chair is unable to decide.

Calls of "Rising vote".

The President: Those favoring the motion as stated, please make it known by rising; those opposed by rising, and standing until they are counted.

The President: There are twenty-five ayes and thirty-five noes. The motion is lost.

The President: The question recurs upon the motion of the gentleman from Hyde that further consideration of Section 19 be postponed until tomorrow morning at nine o'clock.

Mr. Van Buskirk: I have desired that if the gentleman from Hyde would give way, to offer the motion to the effect that this Section 19 of the amendment be referred back to the Committee for further consideration to report, perhaps at two o'clock tomorrow.

A Voice: No, we do not want it referred back to the Committee for further consideration.

Voices from different parts of the hall "No. no."

Mr. Van Buskirk: I was going to add that if they have the power and we think they have, that they so amend that Section 19 as so that we may avoid that one election that all the officers, both county and State may be elected the same time and that it would behoove the Committee to consider it a little further; perhaps there has been some little additional light found by the Committee upon this since it was reported.

Mr. Hole: The motion before the House now is to postpone this until tomorrow morning and for one I would like to hear from every gentleman upon this very question. I don't think there is any conflict to it and we would like to hear from every member of this Convention upon this very important question.

Mr. Price: I want the gentlemen of this Convention to have an opportunity to study this provision in this Schedule Report. I have been absent to North Dakota; I want this courtesy shown so that I can have an opportunity to study it so that I can vote intelligently.

Mr. Wescott: It seems that we have had this letter before us four or five days. I am ready to vote tonight as well as tomorrow morning.

Mr. Williams: I am ready to vote upon this proposition now, some of these gentlemen have been away considering other matters. I would like that they have time to consider it if they desire it.

The President: I think that Rule 6 determines this question that is, the motion made by the gentleman from Hyde to postpone consideration of this question until tomorrow takes precedence of the motion to commit. The question then before the Convention is, that further consideration of this matter be postponed until tomorrow morning at nine o'clock. Those favoring the motion please make it known by saying aye; and those opposed by saying no. The ayes appear to have it; the ayes have it; the further consideration of the motion to adopt Section 19 and the amendments thereto is postponed until tomorrow morning at nine o'clock.

Mr. Hole: I move you that Section 20 be adopted.

Which motion received a second.

Mr. Hartley: I would move that Section 20 by deferred until tomorrow morning. Its form depends upon the decision of the Convention in regard to 19.

Mr. Hole: I will withdraw the motion. I think that that is proper.

Mr. Hole: I move the adoption of Sections 21 and 22.
Which motion received a second.

The Clerk: SEC. 21. The following form of ballot is adopted:

Constitutional Ticket.

INSTRUCTIONS TO VOTERS.

All persons desiring to vote for the Constitution or for any of the articles submitted to a separate vote, may earase the word "No".

All persons who desire to vote against the Constitution or any articles separately submitted, may erase the word "Yes".

For the Constitution. Yes. No.

For Prohibition. Yes. No.

For Minority Representation. Yes. No.

For.....as temporary seat of government.

For Governor.

.....
For Lieutenant Governor

.....
For Secretary of State.

.....
For Auditor.

.....
For Treasurer.

.....
For Attorney General.

.....
For Superintendent of Public Instruction.

.....
For Commissioner of School and Public Lands.

.....
For Judges of the Supreme Court.

First District.....

Second District.....

Third District.....

For Judge of the Circuit Court..... Circuit.

.....
 For Representatives in Congress.

.....
 For State Senator.

.....
 For Representatives in the Legislature.

.....
 For County Judge.

SEC. 22. This Constitution shall be engrossed, and after adoption and signing by the Convention shall be delivered to Hon. A. J. Edgerton, the President of the Constitutional Convention for safe keeping, and by him to be delivered to the Secretary of State as soon as he assumes the duties of his office, and printed copies thereof shall be prefixed to the books containing the laws of the State and all future editions thereof.

The President of this Convention shall also supervise the making of the copy that must be sent to the President of the United States; said copy is to be certified by the President and Chief Clerk of this Convention.

The President: The question before the Convention is the adoption of Sections 21 and 22 of the Schedule report. Those favoring this motion as stated make it known by saying aye; those opposed, if any, by saying no. The ayes appear to have it; the ayes have it and Sections 21 and 22 are adopted.

Mr. Kellam: As from the report that is now being considered as printed, this seems to be the last section of the report, I desire to say before the report is closed and acted upon by the Convention that the Joint Commission at Bismarck, by resolution, agreed to recommend certain provisions to be inserted in the Schedule of the respective Constitutions of North Dakota and South Dakota. I only speak of it now so that these matters may be considered in connection with the Schedule.

Mr. Hole: I would think if there is other matters to be con-

sidered in connection with the Schedule, if those other matters are ready, it would be well to report them now so that they can be considered.

Major Kellam: The recommendation of the Joint Commission is dependent upon and follows the agreement that has been made by the Joint Commission and applies exclusively to the arrangement that was made by that Joint Commission in reference to the distribution of the records of the Territory of Dakota and if I might do so, as the hour is getting well advanced, and for reasons that you will all understand when I suggest that copies of this agreement may possibly appear in the morning papers of both Sioux City and his city. There would be an impropriety in that agreement appearing in the newspapers before its formal presentation to this Convention. I would like to present the agreement to this Convention, so as to save any violation of propriety that might occur from publication of this prior to its being formally presented to this Convention. And if it should be satisfactory to the Convention, having already disposed of this report of this Committee on Schedule so far as printed. To receive this report now, it would put the matter then in shape so that it might properly be published tomorrow.

Mr. Williams: I would move that the report be received.

The President: It does not need any motion. The gentleman from Brule is in order.

The report of the Joint Commission was received by the Convention as follows

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

and liabilities of the Territory, which shall be assumed and paid by each of the proposed states of North Dakota and South Dakota, and

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

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

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

I.

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

II.

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

III.

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

public institutions, grounds or buildings and shall pay all warrants issued under and by virtue of that certain Act of the Legislature Assembly of the Territory of Dakota, approved March 8th, 1889, entitled, "An Act to Provide for the Refunding of Outstanding Warrants Drawn on the Capitol Building Fund."

IV.

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

V.

That is to say:

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

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

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

Bonds issued on account of the Hospital for the Insane at Yankton, South Dakota, the face aggregate of which is	210,000 00
Bonds issued on account of the School for Deaf Mutes at Sioux Falls, South Dakota, the face aggregate of which is	51,000 00
Bonds issued on account of the University at Vermillion, South Dakota, the face aggregate of which is	75,000 00
Bonds issued on account of the Penitentiary at Sioux Falls, South Dakota, the face aggregate of which is	94,300 00
Bonds issued on account of the Agricultural College at Brookings, South Dakota, the face aggregate of which is	97,000 00
Bonds issued on account of the Normal School at Madison, South Dakota, the face aggregate of which is	49,400 00

Bonds issued on account of the School of Mines at Rapid City, South Dakota, the face aggregate of which is	33,000 00
Bonds issued on account of the Reform School at Plankinton, South Dakota, the face aggregate of which is	30,000 00
Bonds issued on account of the Normal School at Spearfish, South Dakota, the face aggregate of which is	25,000 00
Bonds issued on account of the Soldiers' Home at Hot Springs, South Dakota the face aggregate of which	45,000 00

VI.

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

VII.

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

VIII.

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

IX.

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

X.

The States of North Dakota and South Dakota shall pay one-half of all liability now existing or hereafter and prior to the taking effect of this agreement incurred, except those heretofore or here-

after incurred on account of public institutions, grounds or public buildings, except as otherwise herein specifically provided.

XI.

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

XII.

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

XXII.

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

XIV

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

XV.

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

XVI.

All arms, ammunition, quartermaster's and ordnance stores distributed to and now in possession of militia companies of the Territory of Dakota shall remain in their possession, and all the right, title and interest of the Territory of Dakota in and to such arms, ammunition and stores shall vest in the State in which the

armories or headquarters of such companies shall be situated. All 45-caliber rifles and ammunition of same caliber stored in Capitol at Bismarck and 45-caliber rifles heretofore issued to Company F, First Regiment, at Bismarck, shall be the property of North Dakota.

XVII.

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

XVIII.

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

XIX.

The State of South Dakota shall pay the State of North Dakota forty-six thousand five hundred dollars, on account of the excess of Territorial appropriations for the permanent improvement of Territorial institutions which under this agreement will go to South Dakota, and in full of the undivided one-half interest of North Dakota in the Territorial Library, and in full settlement of unbalanced accounts, and of all claims against the Territory, of whatever nature, legal or equitable, arising out of the alleged erroneous or unlawful taxation of Northern Pacific railroad lands and the payment of said amount shall discharge and exempt the State of South Dakota from all liability for or on account of the several matters hereinbefore referred to, nor shall either State be called upon to pay or answer to any portion of liability hereafter arising or accruing on account of transactions heretofore had, which liability would be a liability of the Territory of Dakota had such Territory remained in existence, and which liability shall grow out of matters connected with any public institutions, grounds or buildings of the Territory situated or located within the boundaries of the other State.

XX.

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

XXI.

A final adjustment of accounts shall be made upon the following basis: North Dakota shall be charged with all sums paid on account of the public institutions, grounds, or buildings located within its boundaries on account of the current appropriations since

March 8th, 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 will 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 8th, 1889, to the time of the taking effect of this agreement by any county, municipality or person within the limits of the proposed State of North Dakota shall be credited to North Dakota; and all such sums paid into said Treasury within the said 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 based upon the earnings of the years prior to 1888, under and by virtue of the Act of the Legislative Assembly of the Territory of Dakota approved March 7th, 1889, and entitled "An Act Providing for the Levy and Collection of Taxes upon Property of Railroad Companies in this Territory", being Chapter 107 of the Session Laws of 1889 (that is, the part of such sums going to the Territory), shall be equally divided between the States of North Dakota and South Dakota. And all taxes heretofore or hereafter paid into the said Treasury under and by virtue of the Act last mentioned, based on gross earnings of the year 1888, shall be distributed as already provided by law, except that so much thereof as goes to the Territorial treasury shall be divided as follows: North Dakota shall have so much thereof as shall be or has been paid by railroads within the limits of the proposed State of North Dakota, and South Dakota so much thereof, as shall be or has been paid by railroads within the limits of the proposed State of South Dakota. Each State shall be credited, also with all balances of appropriations made by the Seventeenth Legislative Assembly of the Territory of Dakota, for the account of the public institutions, grounds or buildings located within its limits remaining unexpended on March 8th, 1889. If there shall be any indebtedness except the indebtedness represented by the bonds and refunding warrants hereinbefore mentioned, each State shall at the time of such final adjustment of accounts, assume its share of said indebtedness as determined by the amount paid on account of the public institutions, grounds or buildings of such State in excess of the receipts from counties, municipalities, railroad corporations or persons within the limits of said State as provided in this Article; and if there should be a surplus at the time of such final adjustment each State shall be entitled to the amount received from counties, municipalities, railroad corporations or persons within its limits, over and above the amount charged to it.

XXII.

The payment from South Dakota to North Dakota shall be

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

XXIII.

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

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

XXIV.

All other claims and demands of the Territory of Dakota outstanding when this agreement shall take effect, the collection whereof is not hereinbefore provided for, shall be sued upon and collected by the State of South Dakota, and the costs of suits so brought and the amounts collected shall be divided equally between the two States of North Dakota and South Dakota.

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

1.

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 situated 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 situated within the limits of South Dakota and papers relating to requisitions issued upon the application of officers of counties situated within the limits of South Dakota, all of 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 situated within the limits of North Dakota; one Warrant Register in the office of the Treasurer of this Territory, being the 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 cancelled coupons in the same office representing interest on bonds which said State of North Dakota is to assume to pay; reports of gross earnings of the year 1888 in the same office, made by corporations operating lines or 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 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 thereof.

The State of South Dakota may also provide copies or abstracts of such records, books and archives which is agreed shall be the

property of North Dakota as said State of South Dakota shall desire to have copies or abstracts of.

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

II.

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

"The agreement made by the Joint Commission of the Constitutional Conventions of North and South Dakota concerning the records, books, and archives of the Territory of Dakota is hereby ratified and confirmed which agreement is in the following words, that is to say:" (And then shall follow the words of the Article last above written.)

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

Done at Bismarck, Dakota, this 13th day of July, A. D., 1889.

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

Mr. Kellam: Shall the report be read?

The President: You are the better judge than I.

Mr. Kellam: I do not care about it myself only that it has been properly presented in Convention so there will be no violation of propriety.

Mr. Lee: I think it would be well to hear part of it read.

Mr. Caldwell: There will necessarily be considerable time

consumed in consideration of the several points in this agreement and this would carry this session through to a later hour than I believe those members of the Convention, at least those members of the Convention who have just returned from Bismarck, without having had any sleep within the last thirty-six hours would care to remain here. I would therefore move you that this report be reported as received and that the reading be postponed until tomorrow morning.

This motion received a second.

Mr. Caldwell: I would say in connection with this fact that tomorrow morning's Press will contain a complete copy of this and members of the Convention will have an opportunity to read it and understand it more completely than would be the case by hearing it read.

Mr. Peck: It will appear in our Journal tomorrow morning will it not?

The President: Those favoring the receiving of the report of the Joint Commission this evening and postponing the reading of the same until tomorrow morning, say aye. Those opposed say no. The ayes appear to have it; the ayes have it and the motion prevails.

Mr. Peck: I move we adjourn until nine o'clock tomorrow morning.

Which motion prevailed and the Convention stood adjourned.
Hall of the Constitutional Convention, Sioux Falls, Dakota, August 2nd, 1889.

Convention called to order at nine o'clock A. M.

President Edgerton in the chair.

Prayer by Chaplain Wakefield.

We marvel to ourselves, O God our Heavenly Father when we consider Thy infinite love manifested toward us. We come before Thee this morning to thank Thee for the favorable auspices under which we meet and we ask Thee, that in this, our closing work for the great commonwealth that we represent that nothing will be done that will mar or impede the future peace and prosperity of our beloved State.

May the chief desires of our hearts this morning be, to honor Thee and serve our fellowmen, not only those who are today watching the progress of our work, but those who are to follow in our footsteps.

O Lord, give us this spirit this morning, we ask in Jesus' name.
AMEN.