

## THIRTY-SIXTH DAY.

BISMARCK, *Thursday, August 8, 1889.*

The Convention met pursuant to adjournment, the PRESIDENT in the Chair.

Prayer was offered by the Rev. Mr. KLINE.

## APPORTIONMENT.

Mr. PARSONS of Morton. I move that the report of the Committee on Apportionment be adopted.

The motion was seconded.

Mr. HARRIS. The Committee on Apportionment labored with this question for three days. There were a number who were not satisfied, but we withdrew our objections and agreed to this report. Every man who had any objections withdrew them in a spirit of conciliation and compromise, and it is the unanimous report of the committee of twenty-five, and I trust it will go through just as the committee reported it. It was agreed by the committee that it was the fairest apportionment that we could arrive at.

The report was adopted.

## SCHOOL AND PUBLIC LANDS.

File No. 130 was then taken up and discussed, being the report of the Committee on School and Public Lands.

Sections one to five inclusive were adopted.

Section six was read as follows:

SEC. 6. No lands shall be sold for less than the appraised value, and in no case for less than \$10 per acre. The purchaser shall pay one-fifth of the price in cash, and the remaining four-fifths as follows, to-wit: One-fifth in five years, one-fifth in ten years, one-fifth in fifteen years and one-fifth in twenty years, with interest at the rate of not less than six per centum payable annually in advance. All sales shall be held at the county seat of the county in which the land to be sold is situate, and shall be at public auction to the highest bidder, after sixty days' advertisement of the same in a newspaper of general circulation in the vicinity of the lands to be sold, and one at the seat of government. Such lands as shall

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not have been specially subdivided shall be offered in tracts of 160 acres, and those so subdivided in the smallest subdivisions. All lands designated for sale, and not sold within two years after appraisal, shall be reappraised before they are sold. No grant or patent for any such lands shall issue until full payment is made for the same. *Provided*, That all lands contracted to be sold by the State shall be subject to taxation from date of such contract. In case the taxes assessed against any of said lands for any year, remain unpaid until the first Monday in October of the following year, there and thereupon the contract of sale for such land shall become null and void.

Mr. CAMP. It seems to me that the penalty imposed is very severe. It is going far beyond any tax law I ever read. I never knew of a man losing title to his land on his tax becoming delinquent. In this Territory we have three years—two years after the date of the sale in which to redeem. It strikes me that for the neglect which might readily occur a man should not lose his entire title to his land beyond hope of redemption where there is perhaps four-fifths of the money paid.

Mr. BEAN. There is a great difference between cases where the title belongs to individuals and cases where it still lies in the state. I think this proviso is perfectly proper.

Mr. SPALDING. This proviso regarding the contract being null and void is intended to follow out the same provision which is provided under the contract of sale, in case of non-payment of the interest or the purchase money. We should feel the same interest regarding the taxes that we do regarding the purchase money or the interest. That clause was inserted to get around the decision of the Supreme Court of the United States in the case of the county of Traill against the Northern Pacific railroad company, where the court made the decision on a case exactly parallel with what this case would be, provided we taxed these lands and then there was a failure to pay the taxes. You could not enforce the payment of the taxes unless you could sell the lands and give title. If you sold the lands the State would be depriving itself of its lien on those lands. It would be selling the lands for a song and depriving the State itself of four-fifths, perhaps, of the purchase price, and the only way to get around that and leave these lands taxable is to put this proviso in.

Mr. MATHEWS. I see that the words "not less than" before the words "one hundred and sixty acres" have been struck out. Take it on the section line along side of me—there is 400 acres and 240 of that is no good. It is not worth anything for cultivation, and it would make part of that section of land almost worth-

less, while the other would not sell for enough to overcome the loss on the 240, while the whole section would sell for the full value of \$10 or more per acre. I think it would be well not to have these words stricken out. I think we should be able to sell a section if necessary in a piece. Now we cannot sell more than a quarter section to any one party. I move that our former action in regard to this matter be recinded—I mean to insert the words “not less than” in line twelve, section six.

Mr. BEAN. This amendment made in the Committee of the Whole was as the Committee on Schools and Public Lands intended it to be. They did not intend those three words to be in there. They did not intend to have more than a quarter section offered at any one time, and it seems to me that this is the proper way to do it. If these school lands are to be sold to the farmers an ordinary farmer is not supposed to be able to buy a full section at \$10 an acre. A quarter section of 160 acres is about all an ordinary farmer is supposed to be able to buy at one time. That is why we favor selling only 160 acres.

Mr. MATHEWS. My object was to be able to sell it to the best advantage to the new State and the school fund. I think it would be wrong for us to arrange it so that we could not get as much for the land by selling it as a whole as by selling it in smaller parcels. I think the Legislature should be empowered to sell this land in the way that will best serve the interests of the State at large.

Mr. SCOTT. I think that the State should be allowed to dispose of these lands in such a manner as would the best advance the interests of the State. Frequently they would be able to sell 160 acres to the best advantage, and sometimes they would be able to sell a whole section better than 160 acres. If they are allowed to sell only 160 acres at a time the best portions of the sections will be picked first, and the poorest portions will be left, whereas very often a purchaser would be found who would take the whole section at the price you would get for the best quarter. I don't think it is policy or wisdom to restrict the State in the matter of selling these lands and say just what it shall sell at one time to any one purchaser. I believe if they can sell eighty acres and the board who appraises the land thinks it is to the best interests of the State to sell the land in so small a piece, they should be allowed to sell it that way. But if they can sell 640 acres or two or three sections at the price set for them to good responsible par-

ties, they should be able to sell them. We want an endowment fund for the schools. You would not now say how in all future time to come we would want to dispose of our own farms. I think it is policy to have no restrictions, and the utmost liberty should be given our officials in charge of this business, so that they would be able to look after the best interests of the State, and get as much money out of these lands as possible. If this amendment prevails it is a great deal better than to have the words stricken out. Then you will not be able to offer these lands in tracts other than quarter sections. I think the words "not less than" should be inserted.

Mr. BARTLETT of Dickey. This all sounds very nice to people who have not had experience, but just so sure as you fix this land so that it can be sold in large quantities the rich men of the country would gobble it up. The poor man would have no show. It is an unfortunate thing that money has an influence, and if you follow the advice of the gentleman who has just spoken, wealthy men who will want to control the purchase and sale of these lands will tell the men who have the selling of them that it will be better to sell in large quantities. I want to say that it is not true. It will cut out all of these small men—men who are striving to get homes. I know how it works, and that will be the tendency—to wipe out all the men who can possibly rake and scrape up enough money to buy 160 acres of land. The result will be, the very men you want to benefit will not be able to get any of this land.

Mr. SCOTT. This talk is all very well—claiming that the amendment would be in the interest of speculators, but let us read the section. According to this article the purchaser must pay only one-fifth in cash; the next one-fifth he cannot pay till five years. He has got to pay 6 per cent. interest. He cannot pay the next fifth till ten years after the first payment, and so on. I ask if there is any probability that the speculator is going to buy a land on those terms? He can buy all the land he wants in North Dakota and pay cash for it, exclusive of school lands, so that there is not going to be much running around for the privilege of picking up the school lands. They are not better than other lands. He is not going to buy school lands if he is a speculator, and on such terms as we are putting in here, when he can buy other lands just as good on his own terms. Speculators won't pay one-fifth cash and taxes and interest on the balance for

twenty years. No man will buy these lands except he wants them for actual cultivation—he can't afford to do it.

Mr. CAMP. It seems to me that some limit as to the quantity of land that will be sold to any one person should be placed in this article. The United States has established a rule as to this in the case of its public lands. Before the present pre-emption laws were enacted the public lands were sold at auction, and vast quantities of these lands passed into the hands of speculators in this way. The present policy of the United States is known to all of us. No man can come and buy a foot of these lands except by scrip. The other States have had the same experience as the State of North Dakota will have if there is no limit. Speculators have gone into States adjoining us, and bought up as much as one hundred thousand acres by one fell swoop. The matter of the limitation as to price is referred to in the new report of the committee. File No. 138 provides that the price at which some of these lands may be sold may be less than ten dollars an acre provided Congress pass an act modifying the terms of the grant. It seems to me that in case an act is passed by Congress as referred to, and all restrictions as to quantity of lands to be sold to any one person be removed, the inducements to speculators to take these lands would be great. They would only have to pay one-fifth down, and they would hold these lands for a rise without a large investment, and that is just the way speculators like to operate.

Mr. BARTLETT of Dickey. I do say that if you sell it in large quantities the moneyed men would have the influence, and the result would be that the poor man would not get any of the land. I would like to see the law fixed so that the man who can just raise enough money to get 160 acres can get it.

Mr. LAUDER. I am in favor of the proposition laid down by the gentleman from Dickey. It seems to me that we are taking a great deal of time over this proposition. We went over this same ground a few days ago. I was at that time in favor of putting in this Constitution a provision that no man should be permitted to buy more than 640 acres of this land at one time or at any time, thereby reserving it to actual settlers and preventing it from going into the hands of speculators. That having been voted down I do not care to bring it up again, but I am in favor of every provision the effect of which will be to put this land in the hands and under the control and in the possession of actual settlers—men

who are living on small farms and cultivating them, and to place every obstacle we can, consistently with the interests of the State, in the way of permitting these lands to go into the hands of speculators.

Mr. SCOTT. If the gentleman will notice, it reads as follows: "Such lands as shall not have been specially subdivided shall be offered in tracts of 160 acres." There is a public sale, let us say, and I have made up my mind to gobble up all the lands in my county and I attend the sale. They are offered in tracts of 160 acres on certain terms. I take out the best quarter sections, and it is very seldom that you will find a section of land that is all good. I will buy those quarter sections and leave the poor land, and that they cannot sell. Then they have got the best land sold and the poor land is left. If we did not limit the sale to 160 acres I would be compelled to buy the whole section. That is why I say it is unwise. We will sell our best quarters in this way.

Mr. CLAPP. It seems to me that this section is entirely in the interest of the rich man, for they wish to provide that it shall be sold in lots of not less than 160 acres. If they are going to put it on a fair footing why do they put any limit. Why do they limit it one way and not another? Why not change it so that a poor man can buy eighty acres if the commissioners think it is advisable to sell it in such small parcels?

Mr. STEVENS. I move as a substitute the adoption of the section as it came from the committee. After the action that was taken yesterday, there are a great many here who are afraid that some change may be made in this section for a purpose. It is possible there may. Under the action of yesterday we got 40,000 acres of land down in my county, and we want all the money we can get out of it, and I want the report to stand as it is for I believe it will get the most money out of it.

Mr. JOHNSON. I wish to offer an amendment—to strike out 160 acres and insert the words "quarter section." We have had a good deal of difficulty with quarter sections not being exactly 160 acres in some cases. I live along a line—and I presume some of you have had a similar experience—which Sparks investigated and found contained fluctuations. It was considered at one time that a quarter section of land was the same as 160 acres, but it was found different. Mine was 181 acres and a fraction, and Sparks cancelled all the claims on that line because of that "fraud." The government decided that they could not sell their land in more

than 160 acre lots, and we had committed fraud. I appealed to the Secretary of the Interior and the matter is still held up. Many of the settlers gave up the struggle immediately, and gave up large quantities of well improved land. I think it is the intention that we should sell a quarter section, no matter how much it contains, whether it is more or less than 160 acres, and not allow these difficulties to arise. In section thirty-six you will find that it is very seldom that a quarter section will be exactly 160 acres.

The amendment of Mr. JOHNSON was accepted by Mr. STEVENS. The motion of Mr. STEVENS was carried.

Mr. SCOTT. I move that line twelve be amended so as to read as follows: "Shall be offered in tracts of not less than a quarter section and not more than 640 acres."

Mr. BEAN. We have just adopted the section, and this amendment is not in order.

Mr. SPALDING. I know, or I think I know, what the motion of the gentleman from Ransom was, but the Chair did not put it so as to make the motion an adoption of this section, and I did not vote on it with that view. I am confident we did not vote on it that way.

Mr. STEVENS. I am perfectly willing to have this put to a vote again, but I am opposed to having this open to further amendment, and if the gentleman will consent that we will take a vote on this question and vote for the adoption of this section without further amendment, I am perfectly willing that it shall be put to a vote again.

Mr. SCOTT. If the question is open for discussion again I would like to hear the gentleman from Ransom say why it is the best policy to insert in the Constitution a provision which will say the State must sell 160 acres, neither more or less. I want to know why that is good policy.

Mr. LAUDER. That is what we have been talking about for an hour. I was convinced of this when this question was before the Convention three or four days ago. We have talked this over for nearly a day, and it seems to me every member has made up his mind how he wants to vote.

The section was adopted.

Sections seven and eight were adopted with verbal corrections. Section nine was read as follows:

SEC. 9. The Legislature shall have authority to provide by law for the leasing of lands granted to the State for educational and charitable purposes, but no such law shall authorize the leasing of said lands for a longer period than five years. Said lands shall only be leased for pasturage and meadow purposes, and at public auction after notice as heretofore provided in case of sale. All rents shall be paid annually in advance.

Mr. STEVENS. I move that section nine of File No. 138 be substituted for the section just read.

The proposed substitute reads as follows:

SEC. 9. The Legislature shall have authority to provide by law for the leasing of lands granted to the State for educational and charitable purposes, but no such law shall authorize the leasing of said lands for a longer period than five years. Said lands shall only be leased for pasturage and meadow purposes, and at public auction after notice as heretofore provided in case of sale. *Provided*, That all of said school lands now under cultivation may be leased for other than pasturage and meadow purposes until sold. All rents shall be paid in advance.

Mr. SCOTT. I move as a substitute that section nine of File No. 130 be adopted.

Mr. ROBERTSON. I hope the motion of the gentleman from Barnes will not prevail. This provision amending section nine was made by the committee in response to an almost unanimous demand, and it seems to me that we should adopt the section from File No. 138. I would therefore urge that the motion of the gentleman from Barnes do not prevail.

Mr. PURCELL. As I understand section nine of File No. 138, it differs from section nine of File No. 130 in this—that it provides for those lands which are not cultivated, that they may be leased and some revenue derived from them. That I understand is the difference. A large portion of the school lands today are being cultivated, and the idea is to derive some revenue from them.

Mr. MATHEWS. I am in favor of section nine, File No. 130. Take it through our county, and a great many school lands are being broken up now so as to take advantage of just this amendment that is proposed. There were parties who had got on the Saturday before to the school section within a short distance of where I live with eight teams, and for the purpose of taking advantage of this, and every acre of these lands has been broken up in this way, and it serves to depreciate their value. I am in favor of adopting section nine, File No. 130.

Mr. MCKENZIE. I hope the section—nine, File No. 138—will



prevail for this reason--when the committee had this under consideration this fact was apparent, that if lands were only sold, and not leased except for pasturage and meadow purposes, from some of them we would not get any revenue for a long time. Again, in case of school lands under cultivation, those cultivating them will have the benefit and use of the lands without paying anything to the State, and the committee was of the opinion that this clause should be inserted so that lands now under cultivation shall be rented and then we will get a benefit of the rent that will be paid which will amount to thousands of dollars. If we rent them for one year, which we can do under this clause, we can collect some rental. Otherwise these people who are cultivating these lands can go on using them and they will have next year's crop in spite of you and you will lose that rent which will amount to thousands of dollars.

Mr. SCOTT. We can sell these lands as soon as we can make a contract to lease them. As soon as the State government is in force, and they are forced to lease these lands, they can sell them to the parties in possession. If the parties in possession do not choose to buy them they should not remain in possession. If they don't choose to buy them as soon as they can get a title from the State, then they will not buy them after they have taken one crop off. I think it is poor policy for us to begin renting school lands for other than pasturage purposes. It will destroy their value, and a party in possession, if he desires to buy them, can buy them as soon as he can lease them, and if he does not desire to buy them he should get off the land.

Mr. BARTLETT of Dickey. We had that matter under consideration for a long time, and made the change because we thought there were some lands that we could get something out of in this way and in no other. The gentleman says that if they don't want to buy the lands they should get off. There is no power that can make them get off, and the result is that they cannot be appraised and offered for sale. They might live there for years and we should lose everything from those lands that we might have. It seems to me that this is the section to protect the State.

Mr. PARSONS of Morton. The gentleman from Sargent and the committee have fully considered this matter, and it seems to me a very wise provision indeed for one reason--the school lands in this State that have been cultivated are the best lands we have got. They are the most valuable for cultivation, for it stands to

reason that if a person is going to cultivate any land he is going to select the best. Now then, it seems to me to be foolish, to say the least, to allow those lands which have been cultivated—to allow them to grow up to weeds and remain idle and have no rental from them when they are just the ones that would bring in an income. If parties wish to buy them, all right; if they don't want to buy them, allow this commission the privilege of deriving some revenue from them. It is foolish to say the best of our school lands shall lie idle because they shall not be used except for pasturage purposes. When we consider that the best portion of our lands have been broken up, it is the height of folly to say we shall not derive any income from them.

Mr. CLARK. We gave this matter long and serious consideration in the committee, and this was one of the main features we desired to consider in having the bill sent back to us. Though there may be a few instances like those cited by the gentleman from Grand Forks where people are breaking up land to take this advantage, I think there will be only a few to do this; whereas, on the other hand, these lands can't be rented for pasturage or meadow lands, and cannot be sold, and will lie in idleness and grow up to weeds. Every member of the committee, after giving the matter consideration, was desirous that this section (nine of File No. 138) should be adopted.

Mr. SPALDING. There is another reason. You take it especially in the Red River Valley, and if the school lands that have been cultivated are not allowed to be cultivated any more, they will, inside of three years, seed the whole country from Manitoba to South Dakota with weeds. It would depreciate the value of the adjoining land thousands of dollars, and it looks to me as a matter of self protection and public policy that we must rent these lands. They must be rented as a matter of self protection—as a matter of protection to the adjoining land owners.

The various amendments were voted down, and the report of the committee adopted.

Section ten was adopted.

Section eleven was read as follows:

Sec. 11. No law shall ever be passed by the Legislature granting to any person, corporation or association any privileges by reason of the occupation, cultivation or improvement of any public lands by said person, corporation or association subsequent to the survey thereof by the general government. No claim for the occupation, cultivation or improvement of any public lands shall

ever be recognized, nor shall such occupation, cultivation or improvement ever be used to diminish, either directly or indirectly, the purchase price of said lands.

Mr. POLLOCK. I move that this section be stricken out. I make this motion for the reason that there are a good many actual settlers on small pieces of this land especially in the Red River Valley, and they are men who have gone and erected buildings more or less valuable with the expectation that the same rule would prevail when the State came into the Union as prevailed in Minnesota and Wisconsin and many other states, giving them a chance to purchase their land at the price it might bring—giving them the preference over others. The objection that may be urged is that there are others who have large tracts who have farmed them and have taken the best they could. I have no defense for those who have farmed the land as a matter of profit and have taken the best that it would yield, but I have for those who under a misunderstanding and in good faith made their improvements there and live there. The Legislature can provide in what manner these parties shall be treated, who have really settled on these tracts, and how those who have not actually settled on the lands, but have taken off the produce of the lands, shall be discriminated against. It seems to me that in view of the circumstances something ought to be done to arrange it so that a settler will not have to buy his own improvements. The legitimate result of the passage of this section is that the man who is living on that section must move his improvements or buy the improvements he has placed on his land. As a matter of strict justice and right it may be proper to pass this section, but in view of the precedents that have prevailed in other states it is no more than right that these men should be protected.

The amendment of Mr. POLLOCK was lost.

All the remaining sections were adopted and the committee rose.

#### EVENING SESSION.

Mr. WALLACE. A very valuable portion has been stricken out of section thirteen, of File No. 130. We simply provide now that the Treasurer shall deposit the funds in the name of North Dakota. We stop there. The part that has been stricken out provides for the safe keeping of the funds and I think it was very

unwise to strike it out. If you will examine the section you will see the point I wish to make. I move that the report of the Committee of the Whole be accepted with the exception of that part of it referring to section thirteen of this File.

The motion was seconded and carried.

Mr. PARSONS of Morton. I move the adoption of the following resolution:

*Resolved*, That the Committee on Revision and Adjustment be instructed to report the following as section eighteen of the report of the Committee on Corporations Other than Municipal, and that the same become a part of the Article on Corporation.

SECTION 1. Whenever a difference shall arise between any corporation other than municipal and its employes or an industrial society incorporated under the laws of the State, any of whose members are employes of such corporation, if the disagreement cannot be adjusted by conference, it shall be submitted to arbitration under such rules as may be prescribed by law."

Mr. BARTLETT of Griggs. I think we argued this matter pretty thoroughly, and I move that the resolution be laid on the table.

Mr. NOBLE. I make the point of order that a resolution of this kind cannot be placed in the Constitution without a first, second and third reading.

Mr. PARSONS of Morton. It is simply instructions to the Committee on Revision.

The motion of Mr. BARTLETT was adopted.

Mr. PARSONS of Morton. In accordance with the wish of recommendation of Major Powell, the National Geologist, I offer the following:

*Resolved*, That the following be reported to the Revision and Adjustment Committee with the request that the same be reported as adopted as an article or section of the Constitution:

"All flowing streams and water ways shall forever remain the property of this State."

The motion was temporarily withdrawn.

Mr. LAUDER. I desire to offer the the following resolution and move its adoption:

*Resolved*, That the Committee on Revision and Adjustment be requested to report the following as a section of the article on corporations other than municipal: "Laws shall be passed by the Legislative Assembly providing for the amicable settlement of difference between employers and employes by arbitration.

Mr. STEVENS. I desire to know if that is not already covered in the provision which provides for boards of conciliation.

Mr. LAUDER. No, that is not provided for. The boards of conciliation provided for in the judicial report simply provide for the settlement of differences that may arise without a law suit. It does not provide for the settlement of differences that arise between employers and employes. This provides for an entirely different thing and I hope it will pass.

Mr. BARTLETT of Dickey. I arise for information. I want to know whether the gentleman intends this to be without appeal, for if that is the case I should in my feeble way, oppose it. I don't believe that it is right nor just that any company or creature should be compelled to leave serious matters to arbitration simply in this way. I don't believe it is right. Never in my life have I had a misunderstanding that I wanted to have left to my neighbors. That I shall be arraigned here and compelled to stand by an arbitration whether I want to or not, realizing all the time that it was a put up job on me, is not right, and I don't think it is right that a corporation shall be compelled to do anything of the kind.

Mr. LAUDER. This does not provide for any arbitray submission. It provides or suggests to the Legislature that it provide some means by which parties can submit their differences to arbitration if they wish to, voluntarily.

Mr. STEVENS. I desire to read section thirty-four of the report of the Judiciary Department. It is as follows:

SEC. 34. Tribunals of conciliation may be established, with such powers and duties as shall be prescribed by law, or the powers and duties of the same may be conferred upon other courts of justice, but such tribunals or other courts when sitting as such shall have no power to render judgment to be obligatory on the parties, unless they voluntarily submit their matters of difference and agree to abide the judgment of such tribunals or courts.

Now, unless the concilitroy measures to be adopted as a Board of Arbitration conform to this section, it would be in conflict with this section, and if it does conform, it is covered by this section, and these courts could settle differences between employer and employe as well as differences between any other parties. It seems to me that the matter is fully covered by this section, and any other board to be established would be in conflict with this section.

Mr. LAUDER. It would simply be another section, providing for an entirely different thing. The court that is contemplated by

the section just read by the gentleman is a court of justice that parties can go into and submit their differences without a summons being served. This contemplates an entirely different thing. It simply means that in order to avoid a strike, parties can go before a Board of Arbitration if they voluntarily submit themselves to the board. This provides for settlement of differences where differences arise between employers and employes as to wages. There is no right of action either way—no right of the employer to cut down wages and no right of the employe to demand more. There is no legal right in the matter as legal rights are viewed now under our law. But where these differences may be referred by them to an Arbitration Board to be settled, a strike may frequently be avoided. It contemplates an entirely different purpose from the section the gentleman from Ransom has read. I believe it is in the interests of humanity that it should be so, and I think anything we can incorporate in our Constitution that is reasonable; that does not infringe on the rights of anyone and still in any measure tends to the desired result, should be adopted.

Mr. PARSONS of Morton. I desire to supplement the remarks that have been made by saying that this provision is simply to cover something which has no standing in the courts whatever. You cannot bring it into the courts in any way, shape or form, and it is simply to cover those differences which may arise and settle them and stop striking. It is a pacific measure and that is all there is to it. I wish to extend the hearty thanks not only of myself but of thousands of laboring men in North Dakota to the gentleman who voted against tabling that resolution, and I wish to say the record of that will not stop here, but will go to those who are interested all over the United States.

Mr. STEVENS. I desire to say I was heartily in favor of the other motion, but this is gotten up without any ultimate good to anybody. It is got up simply as a catch-penny, and I move that it be laid on the table.

Mr. LAUDER. I desire to have that read again, and let us see how much of a catch-penny there is in it. I say it is not a catch-penny. It is offered here in good faith, and the purpose of it is a noble purpose.

Mr. STEVENS. The motion is not in order. We have no right to instruct the Revision Committee to bring in such an article. It must go on its first and second reading.

The CHAIRMAN. It cannot be passed as an article. It may

be voted on simply as the sense of the Convention that the Revision Committee should do that.

Mr. SELBY. It is unusual in a discussion of this character that a member of this Convention, for the purpose of holding out an inducement to members to sustain a measure, will make the statement that was made here by the gentleman to the effect that this goes over the United States. I wish it distinctly understood that I made no vote here that was not intended to go out as far as it will reach. It seems to me that in the article adopted several days ago, this point is substantially covered. To say that because I voted against this resolution it is to go all over the United States, and to say it in such a way as to intimidate my vote, will have no effect on me, and I vote aye on the question of laying this motion on the table.

Mr. PARSONS of Morton. I rise to a question of privilege. I have not waved any club or used any threat in this House to anyone, but the remarks I made were in relation to the vote that had been taken—the roll call that had been taken, and I expressed the heartfelt thanks of myself and those who had requested me to introduce this. The record is there. The resolution is not mine. It is that of the gentleman from Richland, and I again desire to thank those who have stood by me in my measure.

A vote was then taken on a motion to lay Mr. LAUDER's motion on the table. It was laid on the table by a vote of 39 to 30.

Mr. PARSONS' resolution relating to flowing streams was then re-introduced.

Mr. SCOTT. I think the resolution is all right, but where are we coming to? It has been our rule ever since we met here to have no article go to the Committee on Revision and Adjustment until it had had a first and second reading. The first and second reading could not be had on the same day. If we allow ourselves to go into this business—if any member is now free to offer an article and we merely instruct the Committee on Revision to present it as part of the Constitution, where are we going to? It was supposed that every original proposition should be referred to its proper committee, returned from the committee and pass its first and second readings. But now we propose by resolution to send this article to the Committee on Revision and Adjustment. I think the section is all right, but I don't believe we can afford to adopt this measure and allow various members to introduce measures of this kind.

Mr. CAMP. I move that the rules be suspended and the article be put upon its second and third reading.

The motion was seconded and carried.

Mr. JOHNSON. There are a good many flowing streams that are now the property of individuals. Does this Convention contemplate the confiscation of the streams?

A discussion ensued on the question of adjournment and the Convention decided that when they adjourn they would adjourn to Tuesday at 2 o'clock.

Mr. CAMP. There is a matter of great importance and the Revision Committee cannot act upon it until it is settled. The whole matter of the Schedule has not been reported to the Convention. I desire also to move that the resolution introduced by the gentleman from Morton, and which has had its first and second readings be referred to the Committee on Revision and Adjustment, with instructions to report the same as part of the Constitution.

Mr. SCOTT. The gentleman from Nelson suggested a few minutes ago that a great many running streams and waterways in this State are private property. Now what effect will the incorporation of this section in the Constitution have? Nearly all the streams in the Territory, except the larger ones, are the property of some private individuals. That being the case, I think we should be careful what sort of a clause we insert in this Constitution in regard to them. There is another class of streams. Suppose I dig an artesian well, and there is a flow of water. Would the State reserve the right to use that water when it was my individual property?

Mr. PARSONS of Morton. The gentleman I believe is a lawyer. I would like to put a proposition to him. If a man owns land on both sides of a stream and owns the land under it, he may utilize the portion that is on his land, but has he the right to turn that stream from its course—to appropriate it in any way to the detriment of anyone else below him who may need it? I don't think he has a right to control that water or get up a syndicate that should control it in any way. The matter of irrigation may become one of the most important questions and in fact one of the most vital interests, and it seems strange to me that any man should endeavor to withhold from, or keep out of the power of the State the natural waterways. It seems to me to be common sense that they should remain the property of the State.



Mr. HOLMES. I move that the matter be referred to the Attorney General.

Mr. STEVENS. Is this the resolution that was passed to its first and second reading a few moments ago? If so the second and third reading cannot be had on the same day, and it cannot be taken up without a suspension of the rules.

Mr. CAMP. I am heartily in favor of this article and am anxious that it should go to the Revision Committee, and we can discuss it. I hope it will go to that committee.

The motion to send it to the Revision Committee with instructions to embody it in the Constitution was carried.

Mr. BARTLETT of Griggs. It seems to me we should find out if there is anything on the Clerk's table that we can act on, and if so clean it up and get it into the hands of the Revision Committee. We want that committee to do its work well and thoroughly and they can only do that when we have got everything into their hands. I don't know but there are some matters that can be acted upon.

Mr. WILLIAMS. The Committee on Schedule cannot make their final report till they know what is going in the Constitution.

Mr. O'BRIEN. When the motion was put here to adjourn till next Tuesday, it was done for the purpose of giving the Revision Committee an opportunity to take advantage of that time in performing their labors. If they cannot do the work that is allotted to them because of the failure of the committee to report, I am in favor of reconsidering the vote by which we decided to adjourn. We want to get through, and we don't care to go home and come back and then have to stay several days longer. I move that the vote by which we decided to adjourn till Tuesday when we adjourn, be reconsidered.

Mr. NOBLE. If the Convention will permit me I will explain something about this Schedule Committee. The committee is ready to report everything except the question of expenses and a few minor questions which it is impossible to report on until other committees report. For instance, the Committee on Expenses. It can all be handed to the Committee on Revision, and any little thing of that kind can be added to the Constitution by the Convention when in Committee of the Whole.

Mr. WALLACE. I desire to move that section thirteen of File No. 130 be adopted as printed. It reads as follows:

SEC. 13. The Legislature shall pass suitable laws for the safe keeping, transfer and disbursements of the State school funds, and shall require all officers charged with the same, or the safe keeping thereof, to give ample bonds for all moneys and funds received by them, and if any of said officers shall convert to his own use in any manner or form, or shall loan, with or without interest, or shall deposit in his own name, or otherwise than in the name of the State of North Dakota, or shall deposit in banks or with any person or persons, or exchange for other funds or property any portion of the school funds aforesaid, or purposely allow any portion of the same to remain in his hands uninvested, except in the manner prescribed by law, every such act shall constitute an embezzlement of so much of the aforesaid school funds as shall be thus taken, or loaned, or deposited, or exchanged or withheld, and shall be a felony, and any failure to pay over, produce or account for the State school funds, or any part of the same intrusted to any such officer as by law required or demanded, shall be taken to be *prima facie* evidence of such embezzlement.

Mr. SPALDING. The Committee on School and Public Lands considered this matter very carefully and decided to cut out the matter that was cut out, and to insert the amendment that was inserted, for the reason that there is nothing in the part that was cut out except what is in the statute, and there is no reason why we should lumber up this Constitution with a definition of a crime of embezzlement. We can't undertake to define every crime in the code here.

Mr. WALLACE. I think it is very important that we should place every safeguard around the money of the Territory that is possible. It is in the Constitution of the State of Minnesota.

Mr. MOER. In view of the fact that it is getting late I move the previous question.

The motion of Mr. WALLACE was carried by a vote of 32 to 23.

Mr. CARLAND. As one of the members of the Committee on Revision and Adjustment I ask authority for that committee to have a sufficient number of copies of its report printed to furnish every member of this Convention with a copy. My idea is that the Constitution should be in the hands of every member of the Convention when we come to consider it after it has gone through the hands of that committee.

The suggestion of Mr. CARLAND was put in the form of a motion and adopted.

Mr. CAMP. I move that the Committee on Schedule be requested to hand their report to the Committee on Revision and Adjustment to-morrow morning at 9 o'clock.

Mr. SCOTT. That is an important committee. It is a little

out of the regular course to have this done, but under the circumstances I see no other way than to report to the Committee on Revision. But if they don't report to-morrow I don't see how we are going to compel them.

The motion of Mr. CAMP was seconded and adopted.

Mr. APPLETON. I desire to offer the following resolution and move its adoption:

*Resolved*, That the Committee on Revision and Adjustment be requested to report the following as an article of the Constitution:

"The State Treasurer shall invest all funds that may come into his hands as such Treasurer belonging to the State of North Dakota in Government bonds, except the sum of \$50,000. All interest collected from said bonds to go to the State, and shall sell said bonds whenever the funds shall be needed."

Mr. SPALDING. This resolution is out of order without a suspension of the rules.

Mr. APPLETON. I move that the rules be suspended and that the article pass to its first and second reading.

Mr. McHUGH. I move that the further consideration of the resolution be indefinitely postponed.

The motion was seconded and carried.

Mr. WILLIAMS. I move to adjourn.

The motion prevailed, and the Convention adjourned.

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## FORTY-FIRST DAY.

BISMARCK, *Tuesday, August 13, 1889.*

The Convention met pursuant to adjournment, the PRESIDENT in the Chair.

Prayer was offered by the Rev. Mr. KLINE.

Communications were read from Grand Forks, Casselton, Jamestown, Lisbon, Minto, Park River, Sheldon, Portland, Hatton, Mayville, Lakota, Wheatland, Fargo and other places relative to File No. 143.

Mr. SCOTT. I move that the further reading of these resolu-