

## Constitutional Convention.

### CHAPTER 33.

AN ACT providing for a Constitutional Convention and the Formation of a State Constitution preparatory to the Admission of Dakota into the Union, and for other purposes.

**PREAMBLE:**—Whereas, experience has abundantly demonstrated that the welfare of the people is promoted by the establishment among them of a permanent government, sovereign in character and republican in form; and

**WHEREAS,** The territorial system of government has no stability, is temporary in character, possessing no sovereign powers, and meets neither the requirements of the people, nor, in the case of Dakota, the rapidly increasing demands of its various and growing interests; and

**WHEREAS,** It has ever been and still remains the wise policy of the parent government to foster and encourage the development and settlement of the Territories until such time as their population shall be sufficiently numerous to entitle the people to be admitted into and become a part of the United States, on an equal footing with the States which compose the Union; and

**WHEREAS,** That part of the Territory of Dakota south of the 46th parallel of latitude now contains a population sufficient to entitle it to admission into the Union, and such population now being desirous of being fully enfranchised and enjoying all the privileges of American Citizenship; and

**WHEREAS,** Public opinion in the United States has decided and the Congress of the United States by their action upon the bill for the admission of such part of Dakota into the Union, has admitted that that portion of Dakota south of the 46th parallel does possess the requisite population and all other qualifications necessary to entitle it to admission into the Union as a State; therefore:

*Be it enacted by the Legislative Assembly of the Territory of Dakota:*

§ 1. CONVENTION PROVIDED FOR.] That for the purpose of enabling the people of that part of Dakota south of the 46th parallel, to organize and form a State Government and make application for admission into the Union of States, a delegate conven-

tion is hereby called to meet at the city of Sioux Falls in the county of Minnehaha, in said Territory of Dakota, on Tuesday the eighth day of September, A. D. 1885, at twelve o'clock, meridian, for the purpose of framing a Constitution, republican in form, and performing all other things essential to the preparation of the Territory for making application to the general government for the admission of such part of Dakota into the Union of States.

§ 2. APPORTIONMENT.] The said convention shall be composed of one hundred and eleven delegates, who shall be apportioned among the several counties of that part of the Territory south of the 46th parallel, as follows:

Aurora.....	2	Lincoln.....	2
Bon Homme.....	3	McPherson.....	1
Buffalo.....	1	Beadle.....	5
Brule.....	3	Brookings.....	3
Campbell.....	1	Brown.....	4
Charles Mix.....	1	Turner.....	4
Clay.....	2	Walworth.....	1
Custer.....	1	Moody.....	2
Day.....	2	Potter.....	1
Douglas.....	2	Sanborn.....	2
Fall River.....	1	Sully.....	2
Lawrence.....	8	Union.....	3
McCook.....	2	Yankton.....	4
Miner.....	2	Butte.....	1
Minnehaha.....	6	Clark.....	2
Pennington.....	2	Codington.....	2
Roberts.....	1	Davison.....	2
Spink.....	6	Deuel.....	1
Grant.....	2	Edmunds.....	1
Hand.....	3	Faulk.....	1
Hughes.....	3	Hamlin.....	1
Hyde.....	1	Hanson.....	2
Kingsbury.....	2	Hutchinson.....	3
Lake.....	2	Jerauld.....	2

*Provided,* That all organized counties in the Territory south of the 46th parallel, at the time the election hereinafter provided for is held to choose members to said convention, and which counties are not above named, shall be entitled to one delegate, who shall be given a seat, and have a vote in said convention, as other members thereof, and said delegates shall be in addition to the one hundred and eleven heretofore provided for.

§ 3. TIME OF ELECTION AND CONVENTION.] An election for the purpose of choosing said delegates is hereby appointed to be held

on the thirtieth day of June, (Tuesday) 1885; at which time the delegates to the said Constitutional Convention shall be chosen; said election shall be conducted in all respects as elections under the general laws of this Territory. And the several county clerks of the several counties of the Territory, are hereby required to issue notice of such election, at least twenty days prior thereto, stating the object of such election, and the number and character of the officers to be chosen, and shall deliver the same to the sheriff, who is required to post the same, as the law now requires; and the several boards of county commissioners are required to establish precincts for such election, and to appoint polling places and judges of such election, and to do and perform all things that are now required of them by law in the case of general elections; and the canvass and return of the votes shall be as now required by law in the case of county officers. And it is hereby made the duty of the several county clerks to issue certificates of election to all persons who shall be declared elected; *Provided*, That the persons receiving the highest number of votes at such election shall be elected as such delegates. It shall be the further duty of such county clerks, within ten days after such election, to certify to the Secretary of the Territory the names of all persons chosen as such delegates from their respective counties, and to transmit the same to said Secretary by mail.

§ 4. SECRETARY TO RECEIVE RETURNS.] The Secretary of the Territory shall receive all certificates so transmitted to him by the several county clerks, and shall preserve the same, and it is hereby made his duty to enter the names of all persons so certified to him as such delegates in a book which he shall provide for that purpose.

§ 5. ORGANIZATION OF CONVENTION.] The delegates so elected at such election shall meet at the time and place appointed by this act, and in such room as the Secretary of the Territory, or the convention, have provided; and at the hour heretofore named, the Secretary of the Territory, or some member elect of said convention, shall call the convention to order, and shall call the roll of the members from the book heretofore provided, if such book can be obtained, and if not, from the official returns of said election, and the certificate of election of each member, in such manner as the convention shall prescribe, and the several delegates as their names are called, shall take their seats in said convention. When the calling of the roll of members shall be completed the several delegates shall be required to take and subscribe an oath to support the constitution of the United States, and to faithfully and impartially discharge their duties as delegates to said convention; said oath may be administered by said Secretary or by any judicial officer of the Territory. The convention shall then proceed

to organize by the election of a president who shall be chosen from among the delegates, and the other officers herein provided for. Said convention shall adopt such rules and regulations for their government as are provided in the case of legislative bodies. It may adjourn from time to time, and shall be the sole judge of the election and qualifications of its members. The president and all officers of said convention shall take and subscribe an oath to faithfully and impartially discharge the duties of their respective offices.

§ 6. DUTY OF CONVENTION.] Said convention after its organization shall proceed to draft a constitution for that portion of Dakota south of the 46th parallel, republican in form, in which shall be defined the boundaries of the proposed State south of the 46th parallel. It shall be the further duty of said convention to provide for an election by the people of the proposed State, at which election the said constitution shall be submitted to the people for ratification; and at which election the State officers, member of Congress, members of the Legislature, and all other officers provided for in said constitution shall be elected: and the said convention shall have power to provide all necessary means for holding said election, and for reassembling said Legislature when elected, and for carrying into effect all the purposes of said constitution; *Provided*, That the expenses of all special elections under the provisions of this act, and of any ordinance of said convention shall be paid by each county in said Territory respectively.

§ 7. PER DIEM.] The delegates to the said Constitutional Convention shall each receive a *per diem* of two dollars and fifty cents (2.50) for each day's attendance upon said convention, and five cents per mile for each mile necessarily traveled in going to and returning from said convention; said *per diem* and mileage to be paid by the territorial Treasurer upon the warrant of the territorial Auditor.

§ 8. ACCOUNTS TO BE AUDITED.] The territorial Auditor is hereby authorized to audit and allow the accounts of the several delegates to said convention, upon certificates of the presiding officer of said convention, countersigned by the secretary thereof.

§ 9. OFFICERS OF CONVENTION—PROVISO.] Said convention shall have power to elect a secretary, assistant secretary, employ stenographers, a chaplain, sergeant-at-arms, messengers and clerks, and janitor, each of whom shall receive such compensation as the said convention shall determine, to be audited and paid in the same manner as the accounts of the members of said convention are audited and paid; *Provided*, That said convention before its adjournment shall ascertain the entire expense of holding the same, including the *per diem* and mileage of its members, compensation of its officers and all necessary expenses, and shall certify

the same under the hand of the presiding officer of said convention and attested by the secretary thereof to the Secretary of Territory, and which shall be filed by said Secretary of the Territory in his office, and be kept as a record thereof; and it is hereby made the duty of the several boards of county commissioners of the counties named herein or represented in said convention, to cause to be levied and collected in the same manner as other taxes are levied and collected, a special tax sufficient to pay all of said expenses, which tax shall be apportioned among the said counties in proportion to the assessed valuation; and when said tax is collected in each of said counties, the same shall be paid by said counties into the territorial treasury; *Provided*, That in case of the division of the Territory of Dakota, or the admission of the southern half as a State before the collection and payment of said tax into the territorial treasury as herein provided, then the Treasurer of said State or Territory formed from that portion of Dakota south of the 46th parallel, as the case may be, shall pay over to the Territory of North Dakota such proportion of said moneys as the assessed valuation of the property in North Dakota bears to the assessed valuation of property in South Dakota, in said new State or Territory.

§ 10. STATE ELECTION.] The laws now in force governing elections, and the canvass and return of the votes cast therein, and the qualifications of voters, shall govern in any election that may be held under this act or under any ordinance of said convention; But said convention shall designate the board of State canvassers, and ordain the method by which the result of the State election shall be promulgated. The said convention shall also provide the manner of presenting the said constitution to the Congress of the United States, and do and ordain all things necessary to be done for the purpose of carrying into effect the government of the State, as soon as it shall be admitted into the union of states.

§ 11. LIMIT OF PAY.] That the members of said convention shall not receive pay for a session of more than thirty days, but said convention may sit for a longer period, and may adjourn from time to time

§ 12. APPROPRIATION.] That for the purpose of defraying the expenses of said convention, there is hereby appropriated out of any money in the territorial treasury, not otherwise appropriated, a sum sufficient to defray the expenses of said convention, not to exceed in the aggregate the sum of twenty thousand dollars.

§ 13. This act shall take effect after its passage and approval.  
Approved, March 9, 1885.