

not know where to meet. I would suggest that there are two rooms back of the stair, and one on the left there, and I suppose there are three in connection with the supreme court room that are available.

The CHAIR. I would suggest that the convention take an informal recess—take about fifteen minutes—and during that time the names of the gentlemen which have been referred to as chairmen of the several committees, will take the committee lists of which they are chairmen and notify the members as they are now. They can be obtained from the lists here. And notify them also in regard to where the meeting shall be held.

Mr. ALLEN. I will call for the names of the committees that are instructed to meet immediately.

The CHAIR. The secretary will read the names of the committees in the resolution adopted by the convention.

(Secretary reads).

Mr. WILSON. Mr. President, I am on the Judiciary committee twice. That is too often for me.

The CHAIR. By leave of the convention, I will just scratch out the name and put somebody else in his place.

(Secretary reads W. H. Savidge on Judiciary committee).

Mr. MORGAN. Mr. President, I move that the convention do now adjourn until tomorrow morning at 10:00 o'clock. (Seconded and carried).

FIFTH DAY.

TUESDAY, *July 9, 10:00 A. M.*

The CHAIR. The secretary will call the roll.

The CHAIR. The convention will come to order. Gentlemen, the chair requests, as a part of our daily observance that the members of the convention will rise while the chaplain is imploring divine guidance.

(Prayer by Chaplain).

Present: Messrs. Ainslie, Anderson, Batton, Beatty, Brigham, Clark, Coston, Crook, Gliddon, Gray, Hampton, Harris, Hays, Hogan, Jewell, Lewis, Maxey, McConnell, Melder, Meyer, Morgan, Pefley, Pierce, Pinkham, Poe, Pyeatt, Reid, Salisbury, Savidge, Shoup, Steunenberg, Stull, Taylor, Underwood, Vineyard, Whitton, Wilson, Mr. President.

Excused: Allen, Cavanah, Heyburn, McMahon, Sweet.

Thirty absentees.

The CHAIR. By consent, the convention will proceed with the order of business, although a quorum is not present. There is scarcely any significance in this case about proceeding. If there is no objection, we will proceed. The secretary will read the proceedings of the first two days of the convention.

(Secretary reads).

Mr. BEATTY. To save time, I suggest that the reading of the proclamation be omitted. We are all familiar with it. (Seconded and carried).

The CHAIR. The secretary will omit the proclamation.

Mr. REID. Mr. President, I ask the unanimous consent that the reading of that report by Mr. Heyburn, chairman of the committee on Committees, be omitted. It has been read and adopted and it has been published.

The CHAIR. If there is no objection, it will be omitted.

A MEMBER. Before proceeding with the regular order of business, I desire to make a motion.

The CHAIR. I am informed by the secretary that he has not completed the reading of the minutes.

(Secretary reads minutes of orders and proceedings. The reading of the minutes of the appointment of committees of this convention was omitted).

AUTHORIZING PRESIDENT TO ADMINISTER OATH.

Mr. BEATTY. I move that the convention suspend the order of business for the purpose of making a motion

that the president be authorized to administer the oath of office to such members of the convention as may from this day arrive. I understand my colleague from Alturas county has arrived and he is here as a member of the convention. I make a motion, therefore, that the president be authorized to administer the oath of office to such members of the convention who have not already taken the oath. And it is suggested by the gentleman right here, to any future attaches of the convention.

The CHAIR. If there is no objection, the rules may be considered suspended for the purpose of putting this motion. Gentlemen, you have heard the motion.

Mr. MORGAN. Mr. President, it occurs to me that while we might authorize the president to administer this oath, there would be no law that would authorize us to do so, and at Washington they are very particular about these questions. They might question the authority to administer this oath. I only suggest this. We have, of course, in the building, several parties who are authorized to administer oaths, and it occurs to me that we might get ourselves into difficulties in this way.

The CHAIR. Will the gentleman from Alturas reduce his motion to writing?

Mr. BEATTY. Mr. President, if there is any one in the building who will administer this oath, it will obviate any necessity of this motion, but my object was to prevent the necessity of sending for the Chief Justice or other officer to administer this oath. I am doubtful of the suggestion of Judge Morgan, that this convention cannot authorize its presiding officer to administer such an oath. It is customary for the officers to administer oaths of this kind after taking the oath themselves. It is not a matter of sufficient importance to insist upon my motion. If there are any officers in the building that can be had from time to time to administer oaths, I will withdraw my motion. It is not a matter of importance at all. It is only to save time and inconvenience in sending for the Chief Justice that I made the motion.

Mr. MAYHEW. Mr. President, I do not believe that

ever I heard, even, that the presiding officer of a deliberative body of this kind had not the power to administer an oath. It is usually conceded by all bodies of this kind that the presiding officer, having once taken the oath, has the power and ability to administer the oath to any incoming member or absentee of that body. Now, so far as the meeting of this convention is concerned, we are here without any law. There is no act of this territory for convening this convention, but we have met here by a proclamation, formed ourselves into a body, oath has been administered to us by the Chief Justice, and we are fully organized. The full organization of a convention or of a legislative body carries that always, and I may say that I cannot imagine any authority to the contrary—that the president or presiding officer of that body has not the power to administer the oath or affirmation for members or attaches. I insist upon the motion that the gentleman has made, that it is correct and that it is legal, and it is not necessary every time that a new member arrives or any future attache may be elected to perform any duty in this body, that we have got to send out for a notary public or the Chief Justice to administer an official oath. If the parties take that oath administered by the chief officer of this convention, it is administered by just as much authority and solemnity as any other way. I hope the motion will prevail.

Mr. POE. My mode of business is always to be on the safe side. In the transaction of business, if there is a doubt in my mind as to which of two modes is the proper and right one, the one I know to be right and the other doubtful, I have always been disposed to adopt that which is certain and absolute. Now under our form of government, when the assembly has been called at any time, and we have organized ourselves as a meeting, under the parliamentary rules and usages we have a right to select a chairman, and because we select that chairman we may call upon some one to swear him to perform his duties. Now there is no particular law authorizing the

administration of that oath, and there is no law by reason of his having taken that oath to authorize him to administer the oath to other parties, and therefore, so far as an oath administered by that one is concerned, there is no legal validity to it, while if an oath is administered by a person who is authorized to administer it, I look upon it as being binding and obligatory. If we are to take an oath that has no obligation or no binding force, then we might have just as well proceeded in this transaction without taking any oath at all. But it seems that we saw proper in our wisdom to be sworn in so that we could give dignity and solemnity to our actions. I therefore oppose this motion, because there seems to be one way that is certain; there seems to be a doubt as to the other, and being a doubt, I take that which is certain.

Mr. MAYHEW. I would like to ask the gentleman one question, if he is of the opinion that we have no authority to administer oaths.

Mr. POE. I will answer the gentleman that we have, but there is no law to make it binding any further than the law that governs a proceeding of this kind. We are proceeding under no statute.

Mr. BATTEN. I think the history of constitutional conventions will show that just about as many conventions have been held where the members did not take any oath at all as there is when the oath was taken. The act of the Chief Justice swearing in the members of this body was an act of courtesy. We are only a body of delegates from the people of the territory to take this step. Now there being no law requiring the members of this body to take the oath of office or the president to take this oath of office, we have ventured to assume that obligation. In adopting the rules for the government of this body, we adopted Cushing's Manual, and adopting that, we adopted the principles which prevail in any deliberative body that the presiding officer of that body

shall have the power to administer the oath to the members of that body..

The CHAIR. It is moved and seconded that members as they may come in from day to day and new attaches as they may be elected from time to time, will be sworn in by the president. (Carried).

The CHAIR. I understand from the remarks made by the gentleman from Alturas that there was one delegate, at least, who had just appeared at the convention.

Mr. BEATTY. Mr. Vineyard.

The CHAIR. If he is present, in order that he may participate at once in the proceedings of the convention, the chair will ask him and any other gentleman who has come in to stand and be sworn in.

(The oath is administered).

Mr. AINSLIE. Mr. President, I believe we elected an assistant secretary yesterday and in order to save time, I believe she ought to present herself for the oath.

Mr. BEATTY. I move that Mr. Ainslie be authorized to assist the assistant secretary to the stand.

Mr. AINSLIE. I suggest that it would be more appropriate for some single gentleman to escort the lady.

(The oath is administered).

SUPPLIES FOR CONVENTION.

Mr. POE. I ask that the rules be suspended that I may make a motion. The motion that I desire to make is this. I have been informed by the sergeant-at-arms that there are not sufficient chairs and tables to accommodate the various committees of this convention, and I therefore move that the sergeant-at-arms be authorized to rent a sufficient number of chairs and tables necessary for the use and accommodation of the several committees of this convention. (Seconded).

The CHAIR. Gentlemen, you have heard the motion. (Vote). The ayes have it and it is so ordered.

The CHAIR. I will state that we are proceeding here without very much order, and we will resume the regular order of business of the day. Presentation of petitions and memorials.

Mr. BEATTY. Mr. President, there was presented yesterday by Mrs. Skelton a memorial which was referred, and the ladies are present this morning and have no reply. I would like to have the matter taken up now and referred so that there may be some action taken.

The CHAIR. If there is no objection, the memorial, or petition, rather, will be taken from the table and referred to the committee on——

Mr. REID. As I understand it, it was not a memorial, but a request to this convention so that the women may present a memorial. They do not ask to be heard before a committee, but before this convention. By referring this letter to the committee, the question will come back here whether we hear them on presenting this memorial. I think, Mr. President, that this committee of ladies should have a hearing here at such hour as this convention may designate. I think we ought not to send her letter to a committee without acting upon it. I think the ladies ought to have a fair showing—a fair chance to be heard.

The CHAIR. The chair agrees most heartily with the gentleman from Nez Perce, but under the rules of this convention, it will have to be referred to one of the committees unless there is another motion made to take the matter up.

Mr. REID. Mr. President, I move that the ladies be accorded a hearing tomorrow morning at 10:00 o'clock. (Seconded).

Mr. BEATTY. I call for the reading of that communication. I have forgotten what it is.

The CHAIR. The secretary will read for the information of the gentleman, the communication from Mrs. Skelton. (Secretary reads).

The CHAIR. It is moved and seconded, gentlemen, that the petition which was presented on yesterday, requesting a hearing before the convention on behalf of the W. C. T. U. be granted, and that tomorrow morning after the formal opening of the convention, reading of the

minutes, and so on, this hearing be granted to the ladies representing that Association, on the floor of the convention. (Vote). The ayes have it and it is so ordered.

The CHAIR. Are there any further petitions or memorials to be presented?

Mr. PEFLEY. I move you, sir, that there be a committee of three appointed to escort the ladies to this convention tomorrow morning at 10:00 o'clock.

The CHAIR. Is there any second to the motion? (Seconded).

The CHAIR. It is moved and seconded that a committee of three be appointed to escort the ladies representing this Association to this convention tomorrow morning at 10:00 o'clock. (Vote). The motion prevails.

Mr. AINSLIE. If it is not out of order, I move that Judge Mayhew act as chairman of that committee.

Mr. MAYHEW. I respectfully decline, not being equal to the task.

The CHAIR. The chair will appoint as that committee, Mr. Pefley of Ada, Mr. Mayhew of Shoshone, and Mr. Ainslie of Boise.

Are there any reports of standing committees?

REPORTS OF STANDING COMMITTEES.

Mr. BALLENTINE. I offer the following resolution:

Resolved, That all standing committees of the convention be instructed to report to the convention on or before Friday, the 12th inst., at 2:00 o'clock P. M. (Seconded).

The CHAIR. Gentlemen, it has been moved and seconded that all standing committees of the convention be instructed to report to the convention by Friday following at 2:00 o'clock P. M. Are there any remarks?

Mr. MAYHEW. Mr. President, I don't know what that resolution means by standing committees to report to this convention by Friday, July 12th. Report what? Report that they are in session? Report any part of the constitution, or what are they to report? Now it is

very evident to me with a number of standing committees it will be impossible for them to perform their entire duties, by getting up and finishing with that portion of the constitution and report it by next Friday—it cannot be done. If this resolution should pass, it would cause those committees to come in here with nothing to report and ask leave to sit again. I don't understand and can't pretend to, Mr. President, how you can force a committee to do something that in fact it will be impossible for them to do? Now this committee on Judiciary can't report that portion of the constitution which it is required for them to formulate and report. They can't do it by next Friday; it is impossible for them to do it. Further than that, Mr. President, there is quite a number of the gentlemen on those committees who are absent, whose knowledge, wisdom and experience this convention desires to have. Mr. Heyburn, chairman of the committee on Judiciary cannot be here until next Saturday; Mr. Sweet, who is a member of that committee, a very important man on that committee, with experience and knowledge, cannot be here until next Saturday to take any part on that committee. I think this resolution will be premature. To require the committees to come in here, they would have to ask for further time to report. I think they should have a longer time than three days to perform their duties. And I think this: If there is a single man on those committees who can get up a report on those subjects in three days, he is a very wise man. I hope the resolution will not prevail, because it is enforcing work upon the committee that it is impossible for them to perform. I hope the resolution requiring a report next Friday will not prevail.

Mr. BALLENTINE. Mr. Chairman——

Mr. MAYHEW. I want to ask here, how is the committee on Revision and Enrollment going to report? How is the committee on Public and Private Corporations to report? This is a sweeping resolution requiring all the committees to report or ask leave for further time.

Mr. BALLENTINE. Mr. Chairman, the object I had in introducing this resolution was to anticipate the business of the convention. It is a well known fact that all committees that are appointed by this convention have precedents for their government and I cannot see the impossibility of formulating their report in three days. I think if it is necessary, they could formulate all of the reports in that time, for the great majority of this convention are anxious to attend to business and get home. I, for one, feel that it will be impossible for me to remain here longer than this week; still I am anxious to participate in all business of this convention with the desire to expedite the business as quick as possible, and I can see no objection to the committees reporting at that time.

Mr. BATTEN. I think if the gentleman's motion were amended so as to read, and report what, if any, progress the committees have made, then it would advise us as to how the committees are proceeding with their work and remove the objection of the gentleman from Shoshone.

The CHAIR. Will the gentleman from Alturas make that as a motion?

Mr. BATTEN. I move as an amendment that the motion of the gentleman from Alturas be so amended as to read, that those committees be instructed to report what if any progress they have made upon the various matters committed to their care.

Mr. POE. I move as a substitute for that, and I think it will meet the end aimed at, this: That the several committees be requested to report to this convention as soon as practicable.

Mr. MORGAN. Second the motion.

The CHAIR. Any further remarks? It has been moved and seconded, gentlemen of the convention, that all the standing committees of the convention be required to report by Friday, the 12th day of July, at 2:00 o'clock P. M., and to that there is an amendment pending, offered by the gentleman from Alturas, that the

resolution be so amended as to require them to report progress, and to that amendment a substitute is offered by the gentleman from Nez Perce that the committees report to this convention as soon as practicable. (Vote). The ayes have it and it is so ordered. Any further business before the convention?

Mr. MORGAN. In order that these committees may get to work and do the work imposed upon them, I move that the convention do now adjourn until tomorrow morning at 10:00 o'clock.

LEAVES OF ABSENCE.

Mr. WHITTON. Before the convention adjourns, I wish to ask for leave of absence a few days. I've got to go home to attend the meeting of the county commissioners. I will have to make it indefinite—I don't know how long the business will last.

The CHAIR. If there is no objection, the leave will be granted. There is no objection.

Mr. HASBROUCK. I would like to make the hour of adjournment until 11:00 o'clock so as to give the committees time to work a little before the convention meets. There is, as a rule, after the convention meets, a great deal of time taken up.

Mr. MORGAN. I accept the amendment.

Mr. BATTEN. My colleague, Mr. McMahan, received a communication informing him of the serious illness of his wife. In his behalf I ask that he be excused from attendance this morning and be granted a leave of absence until next Tuesday morning.

The CHAIR. If there is no objection, the leave will be granted.

It is moved and seconded, gentlemen, that this convention do now adjourn until tomorrow at 11:00 o'clock. (Vote). The convention is duly adjourned.