

## FIFTEENTH DAY.

BOISE CITY, *July 22, 1889, Morning Session.*

Prayer by the Chaplain.

Roll-call, and quorum declared present.

Present: Ainslie, Allen, Anderson, Armstrong, Ballentine, Batten, Beatty, Bevan, Blake, Brigham, Campbell, Chaney, Coston, Crutcher, Gray, Hampton, Harkness, Harris, Hasbrouck, Hays, Heyburn, Hogan, Howe, Jewell, King, Kinport, Lemp, Lewis, Maxey, Mayhew, McConnell, McMahan, Melder, Myer, Morgan, Moss, Parker, Pefley, Pierce, Pinkham, Poe, Pritchard, Pyeatt, Reid, Salisbury, Sinnott, Shoup, Standrod, Steunenbergh, Sweet, Taylor, Underwood, Vineyard, Whitton, Wilson, Mr. President.

Absent: Andrews, Beane, Cavanah, Clark, Crook, Glidden, Hagan, Hammell, Henrdyx, Lamoreaux, Robbins, Savidge, Stull, Woods.

Journal of Saturday ordered read.

The CHAIR. The secretary announces that he is unable to complete the reading until he can complete the report.

Mr. MORGAN. I move that the further reading of the journal be dispensed with. (Seconded and carried).

Mr. BALLENTINE. A great many amendments have been made to the report of the committee on Legislative Department from the committee of the Whole, and I think very few delegates understand the provisions that have been inserted in that bill, and I now move that one hundred copies with the amendments of the committee of the Whole be printed for the use of the convention.

## COMMITTEE REPORTS.

Mr. HEYBURN. I second the motion. (Vote and carried).

Presentation of Petitions and Memorials—None.

Reports of Standing Committees—None.

Final Readings—None.

Mr. AINSLIE. Mr. President, I ask that the journal of this morning show that Mr. Reid of Nez Perce, Mr. Hays of Owyhee, and myself, be recorded as present to-

day, we composing the special committee selected to meet the governor in regard to the reception of the Congressional party.

The CHAIR. There being no objection, it will be so ordered. The regular order of business being exhausted, what is your pleasure?

Mr. MAYHEW. Mr. President, I think it would be prudent for the convention to take up and consider the different articles that have been reported by the committee of the Whole, before this convention resolves itself into the committee of the Whole upon another subject. My object in doing so, if it meets with the approbation of the convention, is this: I presume every member of this convention desires to make this the last week of our labor, if possible, but unless this convention does consider the matters that have been passed upon in the committee of the Whole, in convention, the committee on Revision will be kept busy eight or ten days after this week is passed, and I propose that these matters that have been considered in committee of the Whole be now taken up and considered in the convention, so that they can be referred to the committee on Revision and corrected and disposed of, according to the duties of that committee. I therefore move that we take up the different articles that have been considered in the committee of the Whole and act upon them in the convention.

Mr. BEATTY. Mr. President, I was about to make a similar motion to that, but I desire to amend that in part. It will be noticed that in most constitutions the first matter, of course, is the declaration of rights generally, so far as I have examined. The next subject and the one which naturally comes in here, is that of elections and suffrage, and then follow the different departments of the government. Now that report—the majority and minority report of the committee on Elections and Suffrage, has been returned and printed and is now upon the tables of the members this morning, and I know it is very important that the committee on Revision should be at its work; otherwise the convention

will be delayed here for a long time, and I wish to make a motion to take up this subject this morning and dispose of it, so that the committee on Revision can get to work on its report in the regular order in which they will appear in the constitution, or should appear in the constitution. I desire to amend that motion to the effect that the majority and minority report on elections first be disposed of, before we take up the other matters in the convention, and for that purpose that we go into committee of the Whole to consider the minority and majority report of that committee. I think it is very important that that should be considered now, that it may take its place in the regular order, as it ought to appear in the constitution, and with that amendment I heartily agree with the gentleman from Shoshone.

## RESOLUTION OF EXPUNGEMENT.

Mr. PEFLEY. I rise to a question of privilege, with regard to a certain resolution that was introduced here on Saturday last. I hope it will be taken up now and considered.

The CHAIR. The chair is at a loss to know what resolution is referred to.

Mr. PEFLEY. It was a resolution, Mr. President, reflecting upon me as a member of this convention; that I had introduced certain matter into this convention that was not proper to be introduced. There was a resolution to have it stricken from the record of the convention.

Mr. MORGAN. Introduced by Mr. Cavanah?

Mr. PEFLEY. Yes.

The CHAIR. Was there any second to the motion?

A MEMBER. I seconded the motion.

The CHAIR. I think the motion at this time is out of order. It is not a question of privilege on anything that is pending before the body, and the motion made by the gentleman from Alturas that we now go into committee of the Whole takes precedence of it.

Mr. REID. I rise to a point of order. The gentleman



is entitled to it under the rule. The motion was made, and it went over, under the rule, until the next day. We could not call it up on the next day or at any day thereafter.

The CHAIR. Provided it had been made a special order by the house.

Mr. REID. No sir, but it was introduced, and the gentleman from Boise made the point of order that it would go over one day under the rule; the chair sustained the point and it did go over, but it would have come up Saturday, wouldn't it?

The CHAIR. I don't think it is proper for it to come up in the regular order, like a privileged question.

Mr. REID. As I understand it, there is another motion pending, to go into committee of the Whole. The gentleman from Shoshone made the motion to take up the matter that had been disposed of, in convention, that we have passed on in committee of the Whole. That has been part of the regular business and takes its place on the calendar; that motion should have been printed on the calendar, because it was unfinished business and went over, and its place properly was on the calendar as unfinished business which had to go over under the rule. Not being called up on Saturday, I make the point that he can call it up on any other day after the regular order is through.

Mr. PEFLEY. Mr. President, I am not particular.

The CHAIR. I am compelled to hold for the present that this is out of order, and I hold that the motion of the gentleman from Alturas is in order, namely, that we now go into committee of the Whole, as a substitute for the motion of the gentleman from Shoshone.

Mr. HEYBURN. Mr. Chairman, I move to amend the motion of the gentleman from Alturas by making it, on the regular order of business, in the committee of the Whole.

Mr. REID. I second the motion.

Mr. MAYHEW. There is too much confusion back here to hear anything.

The CHAIR. It is moved and seconded by the gen-

tleman from Alturas that the convention now resolve itself into committee of the Whole for the purpose of considering the report of the committee on Elections and Suffrage. To that motion an amendment is offered by the gentleman from Shoshone, that the convention go into committee of the Whole on the regular order of business as appearing upon the calendar. (Vote). The noes seem to have it. (Division called for. Rising vote shows 30 ayes, 17 noes). The amendment is carried. The convention resolves itself into committee of the Whole on the general order of business as it appears on the calendar.

## COMMITTEE OF THE WHOLE.

Mr. SHOUP in the Chair.

The CHAIR. Gentlemen, the convention is in committee of the Whole on the orders of the day. The first thing in order is the report of the committee on Public and Private Corporations.

Mr. MAYHEW. I move that the report of the committee on Public and Private Corporations be passed over, and that we take up the next order of business. I do that for the reason that Mr. Savidge, one of the members of the committee on Corporations, has a leave of absence, and was expected to return last night; he has been unable to do so. He desired to be present when this report was considered. He not being present, I move that it be passed over until his return.

Mr. HEYBURN. I second the motion. (Vote called for. Rising vote shows 33 ayes, opposed 8).

The CHAIR. The motion prevails. The next thing in order is the report of the committee on Public Indebtedness and Subsidies.

Mr. BATTEN. Inasmuch as the chairman of the committee on Public Indebtedness is absent, I move that that order of business be passed temporarily until he returns.

Mr. AINSLIE. I understand that Judge Hagan does not intend to return, and if we keep up this sort of

thing we shall never get through. I am tired of staying here day after day waiting for members to return. I propose to go along in the regular order, if the majority of the convention will stand by me.

Mr. MAYHEW. I know Mr. Hagan is not coming back.

The CHAIR. Has the motion any support?

Mr. MAYHEW. I supported the motion—what is the motion? (Laughter).

Mr. BATTEN. I withdraw my motion. I simply had wanted to have Mr. Hagan here if possible.

SECRETARY reads Report of Committee on Public Indebtedness and Subsidies.

The CHAIR. Members are continually offering amendments, which they may only do after the entire report has been read, and I believe that has always been the practice in all legislative bodies—to read the report at length. However, I shall leave that matter to the committee.

#### ARTICLE VIII.—SECTION 1.

Mr. REID. I move that Section 1 be adopted.

Mr. MORGAN. I move to strike out the first four words in line 11. It now reads: “until at a general election it shall have been submitted,” etc. Those words “for and against it,” are surplussage. It would read after amendment “and shall have received a majority of all the votes cast at such election.” (Seconded).

Mr. AINSLIE. I think if the gentleman from Bingham will look at that again—it is submitted at a general election. There might be a great many tickets voted at a general election, for state and county officers, or district officers, without men voting upon the proposition of taxes at all.

Mr. MORGAN. I see, sir. I will withdraw the amendment.

Mr. McCONNELL. Mr. Chairman, I move to amend line three, by inserting after the word “one” the words “and one-half.” (Seconded).



Mr. McCONNELL. I think if we should limit the indebtedness to one per cent, with our present indebtedness, we would not be able to pay for the first session of the legislature. I think the expense of holding our first session of the legislature——

The CHAIR. The gentleman will please send up his amendment in writing to the secretary.

SECRETARY reads: Insert in line 3, after the word "one," the words "and one-half."

Mr. POE. I don't understand that this runs to the question of how much we may levy for taxes.

The CHAIR. The proposition here submitted is, to what extent shall the legislature be authorized to run the territory or the state in debt. I do not understand that this regulates the amount of taxes that shall be levied by the legislature at all; but I understand this to say that the legislature shall at no time cause a debt or create a debt against the state exceeding one per centum of the outstanding taxable property of the state. I may be wrong, but that is my idea.

Mr. McCONNELL. My information is that there was no money in the treasury to pay members of the legislature when it adjourned. There will have to be warrants issued, and it will be an indebtedness of the state. I think we had better not fix it hastily, until we examine it. While every member of the floor is no doubt anxious to limit the indebtedness of the state as low as possible, we do not want to do anything to hamper our action hereafter.

The CHAIR. The question is on the amendment of the gentleman from Latah.

Mr. AINSLIE. I think the gentleman offers a very proper amendment. Taking the expenses of the territory, and a valuation of 48 millions, one per cent would only give them \$48,000 a year, but for the present we may put it at \$42,000 a year. I think it would be well enough to raise it to one and a half. If that does not cover it we can raise it again, but if it is too much——

Mr. MAYHEW. Does the gentleman say that the taxable property of this territory is 48 million dollars?

Mr. AINSLIE. Assumed to be that amount.

Mr. MAYHEW. It is 22 millions, according to the reports.

Mr. GRAY. I can't see any harm in the adoption of the amendment, if the money is not needed. But it is not best to restrict the legislature too closely; it might be injurious and affect our credit. It would be better to have a reasonable addition to the amount of credit than to run short. I may state that it would be absolutely necessary that we should levy sufficient taxes to pay the current expenses of the state, and I would certainly not desire to put any restrictions in the constitution that prevent the accomplishment of that. There is one thing certain, the legislature will not raise any more than absolutely necessary to accomplish that end. I therefore move to amend the amendment of the gentleman by inserting "two," instead of "one and a half." (Seconded).

Mr. PIERCE. I do not understand this is for the purpose of levying taxes; it is simply for the purpose of restriction. Our assessed valuation being about 25 millions, one per cent would restrict the legislature in creating an indebtedness of this state of over \$250,000. By adding one-half per cent, it makes \$375,000, and I believe this to be the usual amount that has been established by states that have been admitted previous to this time.

Mr. MAYHEW. There is no such thing as 25 millions of valuation of property in this territory. It is misleading for men to get up here and put the valuation of property at 25 millions, for it is not—it is less than 22 millions. If the gentlemen will look at the reports, the total valuation of all property in this territory is \$21,624,748.74. Now here the property valuation of this territory is less than 22 millions. If we are going to make figures upon a false basis and upon property that we don't possess, we will get ourselves into some difficulty. We might as well look the matter in the face, and put the increase of this matter at two and a half per cent, or two per cent, and be done with it. If



we had a greater valuation of property we would not require this indebtedness or the raising of this money, or the incurring of an indebtedness exceeding one per cent. Now Mr. Chairman, I say two per cent would be better than one or one and a half per cent. If we are going to have a state government, don't let us have it running continually in debt. We must know this, that whatever the indebtedness of the territory is, the state has got to assume it.

Mr. MYER. I think there is a little confusion in regard to this subject. I don't think the gentlemen should confuse the amount which this territory can run in debt with the amount of money that can be raised in the way of taxation. It is immaterial what this territory owes today, whether it is 20 millions, or what the assessed valuation is, whether it is twenty or a hundred millions. This territory, no matter what its future assessed valuation is to be, is to be restricted, so that in the future its debt shall never exceed one per cent of the assessed valuation of property in the territory, and that is all there is in this question.

Mr. MAYHEW. My object is to increase it to two per cent, so that we can carry on the state government.

Mr. AINSLIE. If it is in order, I will move to amend so as to cover the question. Strike out all in lines two and three after the word "aggregate" to the word "exceed." Strike out the word "with any previous debts or liabilities."

SECRETARY reads: Strike out "with any previous debts or liabilities" in lines 2 and 3, Section 1.

Mr. HEYBURN. I have made a close estimate, based on the report of the committee on Salaries, and taking this report in regard to what the expense of the government of this state will be, it would place that amount annually—the annual expense of the state government, at about \$240,000. One per cent of 21 millions is \$210,000 a year. Now we have already an indebtedness of very considerable amount—I have forgotten exactly what it is, but it seems to me that if we limit

this on the basis of our present assessed valuation of property, that we cannot make ample provision for the running of the state government. We should at least cover it; if we do not leave considerable margin, we should cover it.

Mr. MAYHEW. I would call the gentleman's attention to a late report of the indebtedness of the territory—\$200,752.

Mr. HEYBURN. Yes, and we must add that to the amount of the limit, so that it seems to me one per cent is not making ample provision for the government we are creating; we should take that into consideration. If we are creating a government the annual expense of which will be \$240,000 to \$250,000—from which it would appear that the cost of our state government is not excessive at all—we should provide an annual income to more than safeguard that; we should have a margin, resting in the discretion of the legislature, that would enable them to raise in case of necessity \$275,000, which would be \$25,000 in excess of the estimate of the cost of our state government. There are always extraordinary expenses in government that cannot possibly be foreseen. I would be in favor of the amendment offered for making this two per cent. The legislature is not bound to appropriate or create that much indebtedness, but give them margin enough, so that they will not find themselves with a bankrupt state government on their hands the first session they meet.

Mr. McCONNELL. I will accept the amendment.

The CHAIR. The question is then, to strike out the word "one" after the word "of" in the third line, and insert the word "two." Are you ready for the question?

Mr. HAYS. Mr. Chairman and gentlemen, if we adopt the amendment of the gentleman from Shoshone, you will interfere with an amendment that will be sought by the Finance committee—or the Revenue and Finance committee, in this matter. We have carefully estimated the expenses of the state government, and we find that they will be something like \$100,000 less than the gentleman from Shoshone states it. We do not think

it will exceed \$140,000—we have carefully estimated this matter, and we do not imagine it will exceed \$140,000, and one per cent will cover all the state expenses necessary to be provided for.

Mr. HEYBURN. I would like to ask the gentleman a question; was that based upon a legislature of eighteen and thirty-six members?

Mr. HAYS. Yes.

Mr. HEYBURN. And based upon the report of the committee on Judiciary?

Mr. HAYS. Yes; we have taken all these things into consideration.

Mr. HEYBURN. And make it only \$140,000?

Mr. HAYS. Yes.

Mr. McCONNELL. Mr. Chairman, I think this question is being argued from a wrong basis. It will make no difference what the cost of the legislature will be; it will make no difference as to our running expenses. The principal object he has had in offering this amendment is this: There being as stated some 22 millions of taxable property in this territory, one per cent of which would amount to \$220,000, and there being now an indebtedness of approximately \$200,000, as represented by the gentleman, would leave only the further margin of \$20,000 which this territory could bind itself for. Now it may be necessary for us to build a penitentiary. The government itself possibly will turn this penitentiary over to us, but when we become a state there are certain things which it will be necessary for us to have, and it will be necessary for us to provide means, too. Disregarding that we may levy an assessment—levying a tax by the legislature, and we have only a margin of \$20,000 if we limit our indebtedness to one per cent to cover any contingencies that may arise, and we haven't any assurance but what the territorial indebtedness will be more than it is now before we get in as a state. Suppose the territory should assume all the expenses of this convention. The limit of one per cent would not allow the state to assume that indebtedness then. Now I will state to this convention



that I think this committee did not carefully and fully consider this question. I am a member of the committee myself; the chairman was absent nearly all the time, but we brought in this report, so that the convention can take it up and consider it themselves. Of course there are different ideas on this matter, but that is the way the situation is today. We have an indebtedness of approximately \$200,000, as I understand it, and if we limit it to one per cent, our indebtedness can never reach more than \$220,000 under the present valuation. The indebtedness of this year will probably run our indebtedness up to the limit of this report, consequently we would have no margin when we come in as a state, to provide for any insane asylum, penitentiary or any other public institutions. Of course any gentlemen on the floor can, before this finally comes up in the convention for discussion, satisfy themselves as to the correctness of these figures, of our present indebtedness as \$200,000, and of our valuation of taxable property as 22 millions, but that is the way the matter stands today. It is not a question of how much we can raise by taxation, but it is a question of the amount of margin we have to go on, to make internal improvements.

Mr. BATTEN. I would simply rise to confess that I stand sponsor for this bill. Inasmuch as I stand after Judge Hagan on the committee I was requested to do it, which I did do, and got them together, and drafted something that I thought would do to submit to them as a basis to work upon. A great deal of what the gentleman from Latah said is true—that we have probably imperfectly considered the matter. Nevertheless, I submitted what I had done to Judge Hagan. It received his scrutiny and consideration very carefully, and he expressed himself as satisfied. He had raised one or two objections, to which I assented. Now this first section, which in the main meets with approval, is objectionable as to the limit of indebtedness. Of course that is the salient part of the whole section, but it seems to me we are going a little too far if we make this two per cent. I made a cursory examination of the limit which most of

the states have fixed, and I found they usually specified some distinct amount, like two hundred, three hundred or four hundred thousand, as the case may be, and in no case but one did I find that the amount should exceed \$500,000, and that is the state of New York, where their limit is \$1,000,000. Now it seems to me, gentlemen, we might possibly eliminate the more serious objection from this by inserting after the word "liable," the first word in line 3, the words "exclusive of the indebtedness of the territory existing at the time of its admission to the Union." That would leave off of this the \$200,000 existing indebtedness and give us something to work on, and then I think it would be amply sufficient. I don't know that you catch exactly the drift of what I mean. Add there after the word "liable" this clause: "exclusive of the indebtedness of the territory existing at the time of its admission to the Union." Then it would read: "The legislature shall not in any manner create any debt or debts, liability or liabilities, which shall singly or in the aggregate, exclusive of the indebtedness of the territory existing at the time of its admission to the Union, exceed the sum of one per centum of the taxable property of the state." Now that one per cent upon a taxable property of 22 millions would be about \$220,000; that comes up pretty close to the limit—that is, the average limit that most of the states have inserted in their articles relating to public indebtedness, and I don't think that as a young state we should be so extravagant in this matter. I understand the object is to provide for all possible contingencies in restricting ourselves by a limit that would produce more or less improvement, and to that extent I agree with the spirit of the amendments. I will offer that as an amendment anyway, to test the sense of the committee on the subject.

Mr. GRAY. Mr. Chairman, I can't see that the legislature is compelled to incur this indebtedness. I have confidence in the legislature. I believe they will do what is right, and after they ascertain what the necessities of the state will be, I believe they will levy no

more than is necessary. This idea of sewing them up, and saying, you can give only so much, when it might be absolutely necessary to have more—I have confidence enough that they will have such an interest in the interests of the people—the representatives of the people when they are sent to represent them, will have as much interest in representing them as we have today. This idea of restricting them so closely is not policy, and I don't think it looks well, and I would give them a little latitude. There may be many a thing we don't think of, as the gentleman from Latah suggests; there may be expenses we are not contemplating now, and I think there is no danger; I do not believe the legislature will levy it without we need it, and if we need it we should have it, and I want to give them a little latitude. (Cries of "Question").

The CHAIR. The question is upon the amendment of the gentleman from Latah to strike out the word "one" and insert the word "two."

Mr. ALLEN. I would like the privilege of asking a question for information—I was not present to hear the discussion fully—I would like to ask if this will limit the state from issuing bonds, for instance for the purpose of constructing a system of irrigation canals, and so forth.

Mr. MORGAN. It would prevent them from going beyond this limit.

Mr. ALLEN. I think that is a matter that should be considered in this convention—if that has been contemplated.

Mr. PARKER. I ask for information as to how it would affect the issue of bonds for the purpose of radical road improvements in this state, and that should be considered.

Mr. McCONNELL. This would prevent the state from issuing any bonds beyond what is specified by this amendment, and that is the whole principle, that there should be a limit placed on the indebtedness, so as to secure the financial standing of our territory. And by



putting this per cent in, instead of making it a fixed amount, as the state grows larger and as we gain more population and have more taxable wealth, contingencies will probably arise that we do not think of now, but owing to the increase of our valuation we will be able to raise more money. I believe for that reason it is better to make it a per cent than a fixed amount as usually done in the constitutions of other states.

Mr. HAYS. If such be the object, then one per cent would be enough. If our property valuation is going to be increased, and we have an influx of population as well as revenue, then one per cent would be enough—excluding the present indebtedness. We do not want to give the legislative authority too much power; we don't want them to run us in debt. When you have enough money to defray all the expenses of government, if you add one per cent more, you will have \$240,000 to defray the state government expenses. We have figured that—the Revenue and Finance committee—and we find it will not take any such amount to defray the expenses of state government. The amount is about \$140,000, if you exclude the floating indebtedness of about \$40,000; if you add that, it would be about \$180,000. Therefore I say that the rate fixed in this bill is sufficient for all purposes and you have a surplus beside, unless some gentlemen are intending to allow the legislature to make other expenditures, to erect public buildings and create an indebtedness. The present levy, as I understand it, is about three and a half mills on the dollar. To defray the expenses of the state government, it will not be less than about seven. Now will the people be willing to vote a levy of two per cent? I don't believe they will. I shall oppose that amendment.

Mr. McCONNELL. It is not a question of a levy of two per cent at all.

Mr. HAYS. That you shall never exceed that.

Mr. McCONNELL. No, it is not in regard to levying taxes; it is in regard to the future indebtedness of the state. It is not in regard to a levy at all—it is not

the question of tax levy, it is the question of what the indebtedness of the coming state shall be fixed at, whether we shall ever allow it to go beyond one per cent of the taxable property of the state, or whether we shall allow that indebtedness to increase at any time to two per cent.

Mr. HAYS. I understand the situation; that is what I am opposed to. I shall earnestly protest against allowing this to go beyond one per cent. That is sufficient to cover all expenses—more than cover the expenses, and you will have enough money left to pay for these additional buildings or improvements you propose to make. The people are taxed enough now; they will not submit to higher taxes.

Mr. McCONNELL. It is a question of future taxation for the present; it is not a question of present taxation. Should the contingency arise to add an addition to our insane asylum or jail, how could you run the state or territory in debt, without there would have to be a levy to cover it, but by authorizing the state to issue bonds to a certain extent, we can have that money to go on until such time as the state may be able to pay it. It is a question of whether we now, in our impoverished condition, wish to pay for the improvements and expenses of coming in as a state, or leave it to the future.

Mr. BATTEN. How many amendments are pending now, Mr. Chairman?

The CHAIR. The gentleman from Latah offered an amendment, to which there was an amendment offered, which the gentleman from Latah accepted. As I understand, there was another amendment offered to the amendment proposed by the gentleman from Latah. The gentleman from Alturas offered an amendment which I think is not an amendment to the amendment pending, but would be a distinct amendment.

Mr. BATTEN. I just desire to get my amendment before the house.

The CHAIR. I understood the gentleman to say he

would offer his amendment, provided the amendment of the gentleman from Latah was not adopted.

Mr. HOWE. I would like to hear that amendment read.

SECRETARY reads: To amend by inserting after the word "liabilities" in line 3, the following clause: "exclusive of the indebtedness of the territory of Idaho existing at the time of its admission into the Union."

The CHAIR. The gentleman from Boise, Mr. Ainslie, offered one.

Mr. AINSLIE. That covers the amendment I offered awhile ago.

The CHAIR. Then your amendment is withdrawn, I understand?

Mr. AINSLIE. No sir; I did not withdraw it, it is still pending; I never withdrew it.

Mr. MORGAN. I call for the question.

The CHAIR. The question is on the amendment offered by the gentleman from Latah; to strike out in the third line the word "one," and insert in lieu thereof the word "two." Are you ready for the question. (Cries of "Question." Rising vote shows ayes 23, nays 26). The amendment is lost. The question is now upon the amendment offered by the gentleman from Boise; the secretary will read it.

SECRETARY reads: To amend Section 1 by striking out the words: "with any previous debts or liabilities," in lines 2 and 3.

Mr. BATTEN. Permit me one word on that. I think it is very necessary to have that provision in it. The amendment of the gentleman from Boise was sought to meet the objection which has been urged by several gentlemen, from Latah and others, and I think it must be admitted that with the provision which I propose to insert his amendment will not be necessary. I think it is necessary that we should have some provision of this sort in this article, in order to govern us in the future.



Mr. MORGAN. What is your amendment, Mr. Batten?

Mr. BATTEN. After the word "liabilities" in line 3, insert this clause: "exclusive of the indebtedness of the territory of Idaho existing at the time of its admission into the Union."

Mr. MORGAN. It seems to me that if Mr. Ainslie's amendment is adopted, it does away with the necessity of yours; it means the same thing.

Mr. BATTEN. I admit that, but I say it is well to have that "previous debts" appear in the constitution anyway. I think there should be some restriction, not only in incurring indebtedness from time to time, but previous indebtedness should be included in that restriction. That is to say, I find that nearly all the constitutions provide for this matter of public indebtedness, and I don't think we can safely strike that out. But it is to meet those objections that I have inserted the clause which my amendment covers.

Mr. HAYS. I shall support the amendment proposed by the gentleman from Alturas in preference to that of the gentleman from Boise county, because it makes the reading and construction of the section very certain; the other would leave it indefinite. As to whether the indebtedness we would take upon our shoulders in coming into statehood shall be included or not, it is rather uncertain, while the proposed amendment now pending will make the section certain, and I think under that amendment one per cent would be sufficient.

Mr. VINEYARD. I ask for the reading of that amendment of Mr. Ainslie again, to see whether it is identical with the one offered by Mr. Batten.

SECRETARY reads amendments offered by Mr. Ainslie and Mr. Batten.

Mr. MORGAN. Mr. Chairman, it occurs to me—if the gentleman will excuse me—it occurs to me that one is opposite to the other. One includes previous debts and liabilities, and the one of Mr. Batten excludes previous debts and liabilities.

Mr. BATTEN. I desire to answer the gentleman

by saying that we wish to come into the Union with a clean score as far as possible, so far as indebtedness is concerned, and with that object in view I simply eliminate entirely and leave out all question of territorial indebtedness, and let us handle that in some other way or mode.

Mr. GRAY. I don't know how you are going to eliminate that indebtedness without paying it. It would be increased by the increased percentage, and the provision should have been there. You have got to pay it beyond a doubt.

Mr. VINEYARD. I favor the amendment of the gentleman from Alturas, because it strikes me the language is terser and covers the same idea as was intended by the gentleman from Boise. I am opposed to throwing the bars down too, in future legislatures, on the subject of the creation of this indebtedness from time to time; and according to the estimates that have been made by the committee who have had these matters in charge, it seems to me that there will be ample revenue raised on this basis to carry on the government in any reasonable way and the ordinary indebtedness that may be incurred by the state, and leave a margin for any extraordinary expenses.

The CHAIR. The gentleman from Boise makes an amendment to strike out. The gentleman from Alturas makes an amendment to insert. That question is not divisible, and I don't think the amendment of the gentleman from Alturas can be considered as an amendment to the amendment of the gentleman from Boise. The question is upon the amendment as offered by the gentleman from Boise; are you ready for the question? (Cries of "Question." Reading of the amendments again called for, and Mr. Ainslie's amendment again read).

Mr. GRAY. Let me ask the gentleman from Boise if that debt would not exist just the same and have to be paid just the same, supposing that those words were or were not there? Does it affect it in any manner by

striking out, say, "singly or in the aggregate, with any previous debts or liabilities?" That debt has got to be paid out of that money, for all I see. I don't see that it changes it.

Mr. AINSLIE. In reply to the gentleman from Ada, I will say this. The other part of the section stands without this amendment, that the legislature shall not in any manner create any debt or debts which shall exceed the sum of one per cent. Now I don't know how much the indebtedness of the territory is; there is a contingent indebtedness here, that just for wagon road, also contingent indebtedness for the state university at Moscow. This will be retained by the committee on Schedule. Now add the amount of interest on this indebtedness, and deduct that from the amount leaving not to exceed one per cent on the assessable property of Idaho, and we shall in all probability run short of funds to carry on the expenses of the state. Therefore I propose to exempt from the operation of this one per cent provision the previous debts and liabilities, so that while we have that to pay, it gives us the right to levy one per cent to increase the debt of the state, regardless of that amount, which will give us additional funds if we should need it. It recognizes the indebtedness, but allows the legislature to levy a tax creating a debt to the extent of one per cent if necessary, in order that this may not be considered.

Mr. GRAY. I don't understand that it does do that.

Mr. AINSLIE. It will, by striking out "any previous debts or liabilities," but if you leave that in, in making your tax levy under an act of the legislature of one per cent, there has got to be a certain amount deducted from the revenues derived from this taxation to pay the interest on that amount, and to provide a sinking fund to pay the principal, in some way, and that will be deducted from the revenue derived from the levy made under the act of the legislature of one per cent, and it is doubtful whether we have enough. By leaving that out, you have that additional amount to use for other purposes.



Mr. GRAY. I don't understand him. I claim right here that the law will make that first debt payable out of that one per cent, with those words stricken out.

Mr. BEATTY. Mr. Chairman, I believe Mr. Sweet had me the other day appointed as schoolmaster for the committees in this convention, and I fear that with the wrangle we are getting into now I shall have a task I cannot perform. It seems to me that no two gentlemen understand these amendments alike, and it certainly seems to me we are getting into a great muddle. The section as it now reads is clear. The only question is whether there shall be a greater limit allowed to taxation. I move therefore, to avoid this muddle we are liable to get into, as a substitute for all the amendments now pending, that we insert after the word "one" in line 3, the words "one-half," so as to make it read "one and a half per cent." Then the section will be clear; there is no question as to what it means, and it will give an additional limit. (Seconded). And upon that I ask the previous question.

Mr. POE. It strikes me that this is an extraordinary proceeding—this amendment is. The original motion was that "one" be stricken out and that "one and a half" be substituted, and that has been amended to "two" and voted down, and now the gentleman is going back to his original position. That is an extraordinary proposition, it seems to me; I don't think it is in order.

The CHAIR. The gentleman from Latah withdraws the motion for one and a half per cent he proposed.

Mr. HEYBURN. I think we are liable to drift into a mistake over a word, if the gentleman calls for the previous question on that amendment—if allowable at all to call it. I have just been referred to the report of one of our territorial officers, and I find the indebtedness is now something over \$200,000. \$210,000 would be one per cent on the present assessed valuation, and that would leave us \$10,000 margin to go on in the state government. Now that does not include, as I understand it, the appropriation that was made for the state wagon road last winter and some matters of improve-

ment to the state asylum, and the result would be, if we adopt the motion of the gentleman from Alturas, that the state would find itself limited to the indebtedness already incurred. I understand that those two items amount to about \$50,000—\$40,000 for the road and \$10,000 for the other, so that we find all the possible indebtedness absorbed by the territorial indebtedness, with no margin to go on for the state government at all, unless the motion of Mr. Batten is adopted, which excepts the present indebtedness from the operation of the clause. If you do not accept it, you will find yourselves in the position of not being able to incur any indebtedness upon behalf of the state; you will find the whole matter mortgaged by the territorial indebtedness. The gentleman's amendment would leave one-half of \$210,000, on the basis of one per cent on 21 millions—one-half of that as a basis. That is not sufficient, according to the ideas of any gentleman in this convention. One per cent is the very least we can possibly get along with, and that one per cent should be clear of all these previous debts or liabilities of the territory. We do not know just how much is the debt, but we know absolutely that \$200,000 is reported by the territorial officer, and we know there is in addition to that whatever that state road takes, and in addition the state asylum improvement, and we know that it is in addition to what has been appropriated for the state university, so that the probabilities are that the territorial indebtedness incurred is something over \$250,000. I trust the amendment of the gentleman from Alturas, Mr. Beatty, will not prevail.

Mr. McCONNELL. I rise to a point of order; the previous question is not allowable.

The CHAIR. The chair is of the opinion that the previous question is not allowable in committee of the Whole. For that reason I do not——

Mr. BEATTY. There is so much confusion that I cannot hear what is said.

The CHAIR. The question before the committee now

is, shall the question be put. (Cries of "Question"). The question is: Shall the main question be now put?

Mr. HOWE. I rise to the point of order that it requires five members to demand the previous question.

The CHAIR. I sustain the point of order.

Mr. BEATTY. Mr. Chairman, I have been unable to hear what the chair has ruled, there is so much confusion. I don't want to get out of order after the chair has ruled.

The CHAIR. The chair rules that it takes five members to sustain a call for the previous question.

Mr. BEATTY. Very well, as that has not been demanded, I have only this to say. I do not object to the amendment of the gentleman from Alturas, Mr. Batten, except upon the ground that it certainly makes a condition in the sentence. Now if the clause Mr. Ainslie has proposed be stricken out, and then the amendment of Mr. Batten be introduced, I think it would make the sentence read correctly. I want myself to see the increased limit allowed to the legislature. I think that one per cent is objectionable, but it certainly seems to me, if I can read at all, that the amendment of Mr. Batten makes a condition in the language, just as Judge Morgan has suggested, and that is the objection I have to that amendment, as I understand it. Of course we only hear them announced here, and cannot keep them in our mind. If that amendment can be put into such a shape as not to make a condition and then leave the sentence standing, it would be satisfactory.

Mr. BATTEN. I would like to ask the gentleman where the condition is.

Mr. BEATTY. I understand it to read this way, with that amendment—it shall not, singly or in the aggregate, with any previous debts or liabilities—now how does your amendment come in?

Mr. BATTEN. After "previous debts or liabilities," "exclusive of the indebtedness of the territory of Idaho existing at the time of its admission into the Union, exceed the sum of one per cent upon the taxable prop-



erty." That is, to a certain extent, parenthetical.

The CHAIR. The chair rules that the question is upon the motion of the gentleman from Boise (MR. AINSLIE) to strike out in lines 2 and 3 the words "with any previous debts or liabilities." Are you ready for the question?

Mr. CLAGGETT. I would like to offer a substitute, which I think will properly cover some of these amendments. My idea about the matter is that——

Mr. MAYHEW. Can a substitute be offered on the previous question?

Mr. CLAGGETT. The call for the previous question was not sustained. My idea about this matter is, that it is better to get at this question of per cent of indebtedness, say for ten years after the state is organized, in a different way; to leave the whole question of per cent out and fix the total of authorized indebtedness at a fixed sum; then we will know precisely where we are going. And for that reason I ask leave to offer this substitute. I leave the per cent which comes in after the ten years blank, so that it may be filled in, in case the committee favorably considers this way of getting at it. "The legislature shall not for ten years, in any manner, create,"—that is, to strike out all down to the word "except" in the fourth line, and substitute the following: "The legislature shall not for ten years, in any manner, create any debt or debts, liability or liabilities, which shall in the aggregate with any previous debts or liabilities exceed the sum of \$500,000, nor after ten years exceed.....per cent upon the assessed value of the taxable property of the state, as shown by the last preceding assessment." That last phrase is necessary to go in under any circumstances, or you will find that your legislature will say the assessment of last year was erroneous by many millions—it is wrong, and it is not the true taxable property of the state, and under guise of that would go ahead and largely increase the indebtedness limited by law. Now with regard to that substitute, with regard to this question of limitation on state

indebtedness, it seems to me one per cent is altogether too small under any circumstances, either now, with an assessment roll of twenty to twenty-two millions, or at any time hereafter. It must not be assumed by the members of this convention that the amount of this indebtedness is to be an annual charge. Now I will suppose that the taxable property today is twenty millions and the sum total of the indebtedness of the state is half a million. That half a million would represent one-fortieth of the assessment roll. But that half a million would not be payable, but existing in the shape of out-standing bonds of one form or another, upon which the annual interest charge would only be six or seven per cent, and on half a million dollars it would be only \$30,000 a year. So that if you go to tie up your state with the proposition of one per cent on the taxable value, you will find that you will make it exceedingly difficult for the state to be run, that your legislature, whenever they convene, will be constantly tempted to evade the provisions of the constitution, and those attempted evasions will tend to the destruction of that sense of fealty to the constitution, which will result in carrying out that theory of evasion and shiftiness, so to speak, through your entire legislature. If you were to limit the indebtedness at any time to five per cent of the assessed value, you would not go beyond more than about two and a half per cent of the actual value, and this five per cent of the assessed value would be in the shape of an annual charge of six per cent upon that, so that the tax roll would bear the addition very well.

Mr. HASBROUCK. I would like to offer an amendment. I do not like the amendment last offered. It is in my opinion too complicated, would require too much figuring. I desire to offer the amendment in this form.

The CHAIR. It seems to me, with so many amendments being offered, that should not be offered until we have passed upon some of the amendments already offered, unless it is an amendment to that amendment. We

are getting so many here that it is impossible to keep track of them and know which follows.

Mr. MAYHEW. I hope the gentleman will be permitted to offer his amendment, and let them be taken in their order. If some of these are adopted it might cut off the gentleman too soon.

Mr. HASBROUCK. In lieu of the first four lines, read: "The legislature shall not in any manner create any debt or debts, liability or liabilities, which shall exceed the sum of \$250,000, exclusive of any previous debts or liabilities." I am not in favor, for one, that the state shall be run in debt any more than that sum; and I believe it is adequate. We have provided in the committee on Finance and Revenue that the amount of the running expenses shall be met by a levy of taxes upon the property of the territory so that there shall not be a deficit, but if there is a deficit the next levy shall be such as to pay that. Therefore you will have the \$250,000 to meet any extraordinary expenses that may be incurred, or for any internal improvement that may be desired, and I am of the opinion that it is ample. If I am permitted, I would like to offer that amendment now.

Mr. CLAGGETT. Mr. Chairman, it is substantially the idea which I have suggested in the substitute, and that is, to fix the indebtedness at a specified sum and leave out the per cent altogether. I will withdraw my substitute by leave of the second, and let this amendment go in, subject to amendment.

Mr. HEYBURN. I want to call the attention of the gentleman who is making the motion to this: As I understand it to read, it would allow the legislature to create \$250,000 of indebtedness every session, because all existing indebtedness would be previous indebtedness at the time of the creation of the new indebtedness.

Mr. VINEYARD. Certainly; that's it exactly.

Mr. McCONNELL. That is the grammar of the substitute. Am I correct, Mr. School-teacher? (Laughter).

Mr. CLAGGETT. I offer as an amendment to strike



out those last words, exclusive of existing indebtedness, and to substitute for \$250,000 the sum of \$500,000, and that will cover all the territorial indebtedness, and will not make the sum total any greater than provided for by the resolution of the gentleman from Washington.

The CHAIR. Will the gentleman from Washington reduce his amendment to writing?

SECRETARY reads: "The legislature shall not in any manner create any debt or debts, liability or liabilities, which shall exceed the sum of \$250,000, exclusive of any previous debts or liabilities." As he proposes to amend it, it would read: "The legislature shall not in any manner create any debt or debts, liability or liabilities, which shall exceed the sum of \$500,000."

Mr. CLAGGETT. That's it.

Mr. BATTEN. That phraseology makes the whole section on public indebtedness negatory. There could be constant creations of debt every year, and you could pile it up, only with this restriction, that in any one year you could not make it more than \$500,000. (Cries of "Question").

Mr. BEATTY. Mr. Chairman, I want to suggest one objection to this plan of fixing any particular amount. It is fixing the amount upon the basis of property we now have. We may in five years be able to make that debt much larger. The debt should be in proportion to our property. If you fix it upon a percentage, the legislature can at all times regulate that debt in proportion to the amount of property we have. Now that proposes to make it \$500,000. Before any constitutional amendment is made to this constitution we may be able to borrow a million dollars, and in the circumstances in which we are we may want to make such a debt as that. Suppose as Mr. Allen has suggested, (the gentleman from Logan county) we wanted to issue bonds for the purpose of public development, to irrigate these arid lands, and got a grant of Congress to control these lands, we might want to issue a larger amount of indebtedness, with a view of paying it out of the proceeds

of the land. This may tie us up, and that was the reason I was in favor of increasing the per cent, and I think yet the per cent is better than any fixing of a particular amount, because when you fix that amount you can have no benefit of increased valuation hereafter. We suppose that the property of the state will greatly increase after we become a state, and I say we may be able to borrow in five years from this on that property a million dollars, if we find it necessary to issue bonds for the purpose of public improvements, and the per cent would give us that latitude if we increase the property so that the amount can be allowed. I have all the time been in favor of increasing the per cent; I think one per cent is too low, and I voted for the increase to two per cent. But I am like my friend Mr. Gray of Ada county, I believe there is some honesty in legislative bodies, and I believe we can trust our legislatures, to some extent at least, and that we ought to give them latitude. This thing of attempting to tie the legislature down for all time to come is an unsafe experiment. We cannot tell today what we may be in five years or ten years from this, but we are legislating now with a view of what we are today, without looking forward to see what there may be in ten years from this, and I object, for one, to this plan of fixing any particular amount, but base it upon some per cent, and I still insist that the per cent ought to be liberal. (Cries of "Question").

The CHAIR. The question is now upon the amendment to the amendment, or substitute rather, by the gentleman from Washington, Mr. Hasbrouck.

Mr. CLAGGETT. I offer an amendment to that, Mr. Chairman, to the amendment of the gentleman from Washington: To strike out all down to the word "except" in line 4, and substitute the following: The aggregate indebtedness shall never at any time exceed the sum of \$500,000. That makes it short and easily understood—except in the case of war, and so forth.

The CHAIR. The question is on the amendment to the amendment; are you ready for the question?

Mr. HARKNESS. I call for the reading of the amendment, Mr. Chairman.

Mr. AINSLIE. I desire to offer a substitute for all pending amendments: To strike all from the words "shall not" in line one, down to "per cent" in line three.

SECRETARY reads: The legislature shall not in any manner create any debt or debts, liability or liabilities, which shall singly or in the aggregate, exclusive of the debt of the territory at the date of its admission as a state, exceed the sum of one and one-half per cent.

Mr. HASBROUCK. I will accept the amendment to my amendment by Judge Claggett; it amounts to the same thing.

The CHAIR. The question is upon the substitute offered by Mr. Ainslie. (Vote). The ayes have it, by the sound. The question is now on the section as amended. It is moved and seconded that the same be adopted. (Carried).

#### SECTION 2.

SECRETARY reads Section 2, and it is moved and seconded that the same be adopted. (Carried).

#### SECTION 3.

SECRETARY reads Section 3, and it is moved and seconded that the same be adopted.

Mr. HARRIS. I move that it be stricken out.

Mr. HAMPTON. I offer an amendment to strike the whole section out, as the county would be prevented from paying the regular current expenses in some cases, if it happened that the amount which was levied did not amount to as much as was necessary to run the county government. For instance we might have heavy county expenses that would run up considerably beyond the amount that was allowed by the board who made the levy, and in that case there would be no means of paying the debt—it would be null and void—all the expenses that were necessarily incurred in the carrying on of the



county government would be null and void. It seems to me that is entirely wrong.

Mr. VINEYARD. Mr. Chairman, I would inquire, how far does this section conflict, if at all, with the report of the committee on Municipal Corporations? I hold in my hand the report of the committee on Municipal Corporations, and there is one clause there that is covered by this bill. It strikes me that this matter has been covered by the report of the committee on Municipal Corporations.

Mr. MORGAN. And that is the place to put it.

Mr. VINEYARD. Yes, it is duplicated, in other words.

Mr. BEATTY. I expect, when we get to——

Mr. BATTEN. I can answer the gentleman's inquiry. After the committee on Municipal Corporations had prepared its report, and after the committee on Public Indebtedness had also prepared its report, it was then discovered that there were some provisions that would conflict, and it was the intention of Judge Hagan and Major Woods to get together, and cut out something, either one or the other—eliminate from one report what would conflict with the other, but both the gentlemen are now absent, and it will devolve upon this committee to harmonize them.

Mr. VINEYARD. I move that that section be stricken out.

The CHAIR. There is a similar motion now pending; will the secretary read?

SECRETARY reads: I move to strike out Section 3.—HAMPTON.

Mr. BEATTY. I desire to call attention to the fact that there are three sections in this report that are the same exactly as three sections in the report of the committee on Municipal Corporations. I think this is the place where they belong, and I expect when we reach the other report to move to strike them out of the other report. In other words, Section 2 which we have just adopted is the same as Section 5 in Report No. 8, and

then our Section 3 here is the same as Section 4 in the other report, and Section 5 in this is the same as Section 6 in the other report. But I think these sections belong here, and should be stricken out of the report on Municipal Corporations when we come to it, and I expect to so move when we reach that report. They are almost exact duplicates. Section 2 in the report we are now considering is the same as Section 5 in the next report. Section 3 which we are now considering is substantially the same as Section 4 in the next report; and then in Report No. 8, Section 6 is the same as Section 5 in the Report No. 7 which we are now considering. But I think this is the report where they belong, and they do not belong particularly in the other report. I am in favor of leaving them here, and striking them out of the other report when we come to it.

Mr. VINEYARD. With that understanding I will withdraw my motion to strike out, if it is understood by the convention that when these sections are reached in the report on Municipal Corporations, they are to be stricken out.

The CHAIR. The gentleman's motion is not in order. The gentleman from Cassia made a prior motion to that effect—moved to strike out Section 3. It is moved and seconded that Section 3 be stricken out. (Vote). The chair's in doubt. (Rising vote shows 8 ayes; opposed.....). The motion is lost.

Mr. CLAGGETT. Mr. Chairman, I offer the following amendment to Section 3.

SECRETARY reads: Add at the end of Section 3: *Provided*, That this section shall not be construed to apply to any ordinary indebtedness created under the general laws of the state.

Mr. CLAGGETT. I move the adoption of the amendment. (Motion seconded).

Mr. AINSLIE. I would like to hear that read.

SECRETARY reads: Add at the end of Section 3 as follows: "Provided this section shall not be con-

strued to apply to any ordinary indebtedness created under the general laws of the state.”

Mr. CLAGGETT. I simply call the attention of the convention to the fact that the way it reads now it would prohibit the issuance of county scrip to pay the ordinary indebtedness absolutely imposed upon the county as provided by law, in case there should be any heavy expenses, as suggested by Mr. Hampton, exceeding the current revenues of that year; and that is intended to apply to special indebtedness, I should judge.

Mr. AINSLIE. That nullifies the section as it stands now. That absolutely nullifies the section, destroys the whole life of it. If they can go on and issue scrip, that is incurring indebtedness.

Mr. ALLEN. Mr. Chairman, I supported the motion to cut out this section for this reason, that the substitute brings our attention to the fact which the committee, it seems to me, have not thoroughly digested in preparing this section, and that is this, that in some of the counties of this territory under the general law there is indebtedness which is greater than is provided for in this clause of the section, and which makes it a necessity to issue scrip at different times in case of any emergency of court expenses, or any emergency. I think that the matter has not been fully considered and it was to expedite this matter that I supported the motion to strike out. I am in favor of the substitute.

Mr. GRAY. Now as I understand this section (reading) “No county, city, town, township, board of education or school district, or other subdivision of the state shall incur any indebtedness or liability in any manner, or for any purpose, exceeding in that year the income and revenue provided for it for such year without the assent of two-thirds,” etc. Now as I understand it. the board of county commissioners of the county or of the city—the proper levying board—when they levy a tax for a certain purpose, that is, if it is for the purpose of bridges, for the purpose of roads, or for any such purpose, they estimate what will be necessary for the



expenditures of the town or county for that year; and that sum shall not be increased without a vote of the people; there shall be no other tax levied except that one which is provided by the board of county commissioners. That is my understanding of this, and it is supposable that the board of county commissioners having charge of the interests of the county, understand what is necessary and what would be required, and they would levy a tax sufficient for that purpose. (Reading): "exceeding in that year the income and revenue provided for it for such year without the assent of two-thirds of the qualified electors thereof." That is, in the event that is not sufficient, then they have got to have two-thirds to require the levy of the additional tax. Now if I understand it right that would seem to be what was intended by that section.

Mr. CLAGGETT. I would like to ask the gentleman from Ada one question. I offered this proviso to call the attention of the convention to this matter. We don't want to go over this too fast. For instance, the general laws of the state will provide that the witness fees are so much, the mileage fees are so much, all the expenses of the county government are fixed by law. Those expenses are paid annually by the issuance of county scrip, or paid as they arise by the issuance of county scrip. We all know that in the practical administration of county government, that there sometimes will be extraordinary expenses, I mean extraordinary expenses in the ordinary administration of affairs. I am not speaking now of special indebtedness at all, but the ordinary general indebtedness which is incurred in the way of administration of county affairs. Now if you pass that section in the way it is you will absolutely require that when a witness wants to get his fees, after he has attended upon the court, before he can do it the county commissioners have got to stop and submit at a special election to the whole vote of the people as to whether they will pay them or not, and that is the object of the proviso; it is to limit the section to such indebtedness as does not

arise under the ordinary administration of the county. I will call for the reading of the amendment again, Mr. Chairman, so that we may understand it.

SECRETARY reads: Add at the end of Section 3 as follows: "Provided that this section shall not be construed to apply to any ordinary indebtedness created under the general laws of the state."

Mr. REID. Will the gentleman accept this amendment: "Provided it shall not apply to the usual and necessary expenses?"

Mr. CLAGGETT. Certainly, I will accept the amendment.

Mr. BATTEN. I am opposed to the amendment or substitute offered by the gentleman from Shoshone. If we are going to restrict any state or municipal indebtedness, let's restrict it. Let's not do as did Rip Van Winkle when he made a resolution not to drink anything—keep on drinking and say each drink did not count. Now we are here in this article dealing with municipal and state indebtedness, dealing with it with a view to restrict it within certain bounds. Now the object of this proviso would eat the whole life out of the matter, deprive it of its very meaning, so that I am for that reason opposed to it. There are ample provisions made for meeting every objection which is urged against it, and that is if two-thirds of the qualified electors shall deem the emergency such as to require an additional levy, they can order an election or vote for that purpose. Now why restrict that indebtedness and then in the next line say we don't mean it? That is the effect of the whole matter. It seems there is unanimity of sentiment in both committees, the committee on Municipal Corporations have a section identical with this, and in preparing this draft I took the section from that of California in the main,<sup>1</sup> and I also found the same section is in almost all the states, and I think we should go a little slow about stripping from this provision the very meaning we have put in it.

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<sup>1</sup>—Sec. 18, Art. 11, Cal. Const. 1879.

Mr. REID. I think the objection raised by the gentleman from Alturas does not apply, because if you continue down in the fifth line you will see it reads: "unless, before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund." It seems that the section was intended to apply to the incurring of a permanent indebtedness, and it seems as though the committee did not mean to limit it to current expenses, because if so, the committee would not have put in the balance of those lines, in the fifth, sixth and seventh lines. Now as to the incurring of any permanent indebtedness or extraordinary indebtedness out of the usual course, I am in favor of limiting that in the way in which we usually limit counties. A man does not know, as suggested by the gentleman from Shoshone, when he gets county scrip for attending as a juror or a witness—he does not know whether it is in the county treasury or not. The effect of it would be to hold county scrip down, to allow speculators to get hold of it.

Mr. HEYBURN. I call the attention of the convention to another fact. Take a county like ours for instance, where about one-third of the income is derived from licenses. That is a fluctuating thing; sometimes the licenses in a given year will be \$20,000, sometimes fourteen or fifteen thousand dollars.

Mr. STANDROD. In our county as much as \$5,000 a year.

Mr. HEYBURN. They cannot make a correct estimate of that part of the income—and the word "income" is used in this bill—they cannot make a correct estimate as to what that source of revenue is going to be and make their estimate of it. There may be a serious falling off, that would place the commissioners in the condition of finding themselves five or ten thousand dollars short of what they intended to count on, and there may be an unusual number of capital cases to be tried in the criminal court. The expenses of the criminal



court instead of being upon the litigants as in civil cases are upon the county, because of it being criminal business, and you take all of these circumstances together, it is very unsafe to tie up the county in any way, shape or manner, in the position the ordinary county is already, far exceeding its legal indebtedness and scrip selling at sixty-five, seventy and eighty cents on the dollar. It is unfair to those counties; the counties out of debt can afford to do this sort of thing. But we don't want to work an injustice on the counties now already largely in debt.

Mr. BATTEN. With the assent of two-thirds they can do that.

Mr. HEYBURN. Yes, that I allow. Elections are held in our county at an expense of eight or nine hundred dollars—for the purpose of determining whether or not you shall issue \$500 worth of warrants—that is the practical application of that principle, and it is hardly worth while to go to this expense. We don't want to have any part of our court expenses in doubt; we don't want to leave any part of the ordinary legitimate expenses of running county government in doubt, and we don't want to call a county election for the purpose of making up a deficit of four or five hundred dollars at the end of the year, because the costs of the election are very considerable in a county such as ours.

Mr. HAMPTON. I desire to offer a substitute for the gentleman of Shoshone's amendment. Insert after the word "purpose" in the third line, the words "except for necessary court expenses." This is a thing that must be provided for, it seems to me.

Mr. CLAGGETT. "Ordinary and necessary" placed at the close, brings out the meaning of expenses, the effect.

Mr. PRITCHARD. It seems to me that it will not. (Reading): "Any indebtedness or liability incurred contrary to this provision shall be void," it seems to me to provide that if any indebtedness above what is provided for should occur, court expenses or anything of

that kind, it is simply void by this provision, and an election or anything else would not make it legal. It is simply void unless an election is going to make it legal.

SECRETARY reads: Insert in the third line the words "except for necessary court expenses."

Mr. MORGAN. I think the gentleman from Cassia's substitute is entirely covered by the amendment of the gentleman from Shoshone; it would include the ordinary court expenses. I think the entire matter is covered by the gentleman from Shoshone and I hope it will prevail. (Cries of question).

Mr. PEFLEY. It occurs to me if that motion should prevail it would cut cities off. Now we are liable to fall short in our ordinary levy in this city. We have streams running adjacent through the city that in time of high water, and ditches all the time, that are liable as I said to break away and run down through the city, and if we had to wait to hold an election and get two-thirds of the voters to ratify another levy, the whole city might be ruined before it could be abated, and I would not like to see anything of that kind occur. I think it should apply to cities and counties alike and all corporations, that they should be allowed in contingencies to abate them immediately without waiting for an election to be ratified by two-thirds.

Mr. HOWE. I wish to offer an amendment to the section.

SECRETARY reads: To amend Section 3, line 3, by striking out the words "income and revenue provided for it" and insert "usual and necessary expenses."

Mr. HOWE. I think it should properly be taken and substituted for the amendment of the gentleman from Shoshone. I don't understand, Mr. Chairman, that phrase "income and revenue." Now before the commissioners fix the amount of the levy that they will put upon the property for such amount of indebtedness, they will first ascertain what the liabilities are and what the requirements are, and they will make such a levy as to cover the whole—that is of the indebtedness at that

time; and they may make a levy to cover the indebtedness, not to cover income and revenue. They raised this income and revenue to meet the expenses, and all we have to guard against is the indebtedness, not guard against the income.

The CHAIR. Is the amendment supported? (Seconded).

Mr. REID. I would like to hear how the bill will read after it is amended by the last amendment.

SECRETARY reads: "No county, city, town, township, board of education, or school district, or other subdivision of the state, shall incur any indebtedness, or liability in any manner, or for any purpose, exceeding in that year, the usual and necessary expenses for such year, without the assent of two-thirds of the qualified electors."

Mr. CLAGGETT. That carries us right back to where we were before exactly. You will have to limit this section in order to make it intelligible, you will have to limit this section to what was in the contemplation of the committee in respect to indebtedness which has been incurred beyond the current expenses, and add the matter at the end in the shape the proviso has been suggested.

Mr. VINEYARD. The only objection I have—I would like to hear Judge Claggett's amendment read—as respects state, city and county; why should you eliminate the word "state?"

Mr. CLAGGETT. That is the very proviso in the end of the section.

Mr. VINEYARD. "No county, \* \* \* or other subdivision of the state." If you confine your amendment to the subdivisions of the state it would eliminate the indebtedness of the state if I have understood you correctly.

Mr. CLAGGETT. Oh no. not at all. I call for the reading of the amendment.

SECRETARY reads: "Add at the end of Section 3 as follows: 'Provided that this section shall not be con-



strued to apply to any ordinary indebtedness created under the general laws of the state.' ”

Mr. CLAGGETT. And I except the amount of any general or ordinary expenses.

The CHAIR. The gentleman from Shoshone offered an amendment to which Mr. Howe offered a substitute. The question is now upon the substitute offered by the gentleman from Nez Perce.

Mr. GRAY. Let's see what that is.

SECRETARY reads: In Section 3, line 3, strike out the words “income and revenue provided for it” and insert “usual and necessary expenses.” (Vote).

The CHAIR. It is lost. The question now recurs upon the amendment of the gentleman from Shoshone, Mr. Claggett; are you ready for the question? (Cries of “Question”).

Mr. MORGAN. I move the adoption of the section as amended. (Seconded).

Mr. HARRIS. I move an amendment to the section.

SECRETARY reads: Amend Section 3 by striking out the words “two-thirds” in line 4, and insert the words “a majority.”

Mr. HEYBURN. I second the amendment.

The CHAIR. The question is now upon the amendment offered by Mr. Harris. (Rising vote shows 15 ayes, 26 nays). The amendment is lost. The question now recurs upon the motion of the gentleman from Bingham that the section be adopted. (Carried).

#### SECTION 4. (STRICKEN OUT).

SECRETARY reads Section 4, and it is moved and seconded that the section be adopted.

Mr. WILSON. Mr. Chairman, I have an amendment.

Mr. HARRIS. Mr. Chairman, I offer an amendment.

SECRETARY reads: Mr. Chairman, I move that the following words be inserted after the word “therein” in line 3 of Section 4, to-wit: “*Provided*, That in any city or town of over 2,000 inhabitants by consent of the

qualified electors thereof expressed at a special election held for such purpose, such limit shall be not to exceed 15 per centum of the assessed valuation of such city or town." (Seconded).

Mr. WILSON. I will give my reasons for this amendment. As will be seen the section as read first provides the limit shall be five per cent upon the assessed valuation. My amendment goes to the extent that cities of 2,000 inhabitants may provide by special election held for that purpose that the limit shall be fifteen per cent instead of five. As you are aware, there are very few cities in this territory that have over 2,000 inhabitants; this town is one of them. I will say that last winter there was a resolution passed unanimously by our board of city councilmen requesting the legislature to pass a memorial asking congress to pass an act authorizing bonds for this city for \$150,000 for the purpose of funding outstanding floating indebtedness and for a sewerage system and water works. The outstanding floating indebtedness of this city now is about \$40,000 inclusive of interest-bearing warrants. The assessed valuation is between eleven and twelve hundred thousand dollars. The memorial which the council asked the legislature to pass for it passed the legislature unanimously, not one dissenting voice being heard. That shows manifestly that the people of this city want to be permitted to bond this city for an indebtedness of \$150,000. If this is put in our organic law it will prevent them. If my amendment prevails it will permit it. As you all know, these western towns cannot grow except by contracting a large indebtedness. There has not been a western town within the last ten years that has increased to any extent unless they incur large indebtedness. I think, as well shown by writers on political economy, that municipal indebtedness is absolutely necessary for municipal prosperity and making the municipal improvements that call for indebtedness, and I make the assertion that with indebtedness the debtors are those who make vastly more wealth—the borrowers

are the towns that acquire it. Now it is absolutely impossible to provide for a sewerage system or water works in Boise City unless my amendment prevails and we are authorized to bond the city for \$150,000. We have assurances from financial sources that bonds to the amount of \$150,000 on terms of say twenty years to run at six per cent interest can be floated. Six per cent interest on \$150,000 is only \$9,000 a year. We are already paying four or five thousand dollars a year interest on outstanding warrants, so that if the city was bonded the expense to the city would be little more than it is now, and with a system of water works the net annual income to the city would be more than sufficient to compensate for this additional expense. Now by providing this in our organic law it does not in any way affect any other city or town in Idaho Territory except this; I am not aware that there is any that has over 2,000 inhabitants, and therefore I ask it because the people of Boise City want it, because they have supported it unanimously, and because it cannot do any wrong at all to any other section of Idaho and can be of great good to these people.

Mr. GRAY. I feel quite a little interest in this matter, but still I will say that as a general thing I cannot see where it can do wrong. It gives cities of this size an opportunity of taking a vote of their people that feel like assuming that indebtedness; if they are desirous of making improvements, it gives them an opportunity to do it. I will say as to what has been stated by my colleague, in the event that they attempt to start in and make a perfect system of sewerage here, which ought to be done if anything is done, the amount that we will have under this act would not be sufficient to complete the work or do what would be necessary to do, and therefore perhaps there would be nothing done. But if the people of Boise City are desirous of doing it I don't think they should be prohibited by a clause in the constitution from doing it. What I have in view is particularly Boise City at the present time, but it is



desirable for the people to make improvements such as suggested by my colleague. And I cannot think but what in future years in other places they may be desirous of doing the same thing, and I think it would be wrong and harsh should they be restricted in doing what they see fit to do, where it is not a state expense, only their own expense.

Mr. SWEET. I would say, Mr. Chairman, in Nebraska and Iowa, in fact in nearly all of the western states, railway corporations and others of that character induced the people of counties and towns to vote subsidies in the way of bonds to aid them in the construction of railways, until the people of those states became so burdened with taxes that they turned upon all sorts and kinds of indebtedness, and the result has been there has been a great deal of antagonism——

Mr. WILSON. Allow me to ask the gentleman a question.

Mr. SWEET. I am supporting your amendment, if you will just wait a moment. (Laughter).

Mr. BEATTY. I hope the gentleman will make himself clear.

Mr. SWEET. Well, all those states have turned against corporations and the voting of subsidies, and I think very justly, and I think the example of those states should be a lesson to us to avoid giving permission to municipalities to vote such subsidies; still I don't think it should extend to prohibiting towns and cities from having a reasonable indebtedness for school and sanitary purposes. I don't think we can build up the towns and cities of this territory unless we can have the right and power to vote a reasonable indebtedness for school and sanitary purposes, and I hope the amendment will prevail.

Mr. HEYBURN. I have an amendment, Mr. Chairman.

Mr. KING. Mr. Chairman, I would like to call the attention of the house to one fact. We have just adopted a section that gives to the counties, the cities, the towns,

townships, boards of education and school districts and other subdivisions of the state the power to incur an indebtedness to a certain amount on certain conditions. Now under this provision the county can have the power under Section 4 to incur a debt limited to five per cent, that is five per cent on the assessed value of the property. A debt incurred for a county purpose would be a tax to be assessed upon the property of every city, every town and every school district within that county. Under this provision any city can levy a tax not to exceed five per cent; that would make a tax or a debt resting upon the property of that city amounting to ten per cent under the provision we have just adopted. A school district may also levy a debt of five per cent.

The CHAIR. There was an amendment also offered and adopted to Section 3.

Mr. KING. What was the amendment?

The CHAIR. Will the secretary let the gentleman see the amendment? (Mr. King reads it).

Mr. KING. That does not affect the question. I was attempting to show how much debt can be incurred upon property within the school district or within the town or city under the provisions we have just adopted, which can amount to five per cent upon the assessed value of the property of the county. There can be a debt contracted upon all the property in the city, and this would be a tax amounting to ten per cent of the assessed value of the city, the city might include one or two school districts; each school district might incur a bonded indebtedness amounting to five per cent. Then there would be a bonded indebtedness resting upon the property of that district amounting to fifteen per cent. A tax of course must be levied to pay the interest and provide a sinking fund to pay the principal. Now would that not be too much taxation to levy upon the people? Now the amendment proposed by the gentleman proposes to increase the amount to fifteen per cent in a city; then there would be a burden resting

upon the property in that city, first, of five per cent as their proportion of the county tax; there would be fifteen per cent for city taxes on the valuation, and five per cent for school districts—that is bonded indebtedness for school purposes. These amounts amount then to twenty-five per cent upon the assessed value of the property, and a tax would have to be levied to meet the interest upon it and provide a sinking fund for the principal, in addition to the amount of all the ordinary expenses of the state, the county, the town, and the city and school district. There is a bonded indebtedness provided for under that provision by which it may go if it is in a school district and incur a burden of twenty per cent upon the assessed value of the property. Now this Section 4 provides for five per cent for each one of them. The amendment provides for fifteen per cent upon one of them. Now of course all these different subdivisions are included in the county. The county includes the city, the city includes the school district; the county includes the town and the town includes the school district. Now each of them under the provisions of this law as I see it can incur an indebtedness of five per cent, which without the amendment the gentleman has proposed would be fifteen per cent upon the property and in the city it might amount to ten per cent more than that, or twenty-five per cent. There could be a burden of debt resting upon the property of a city of 2,000 inhabitants amounting to twenty-five per cent of the assessed value, and taxes must be levied every year by the provisions of this law to pay the interest on that and also to provide a sinking fund to pay the principal within twenty years.

Mr. HEYBURN. Mr. Chairman, I have an amendment to offer.

SECRETARY reads: I move to strike out Section 4. (Seconded).

Mr. HEYBURN. Mr. Chairman, if it is not stricken out, as far as the members of this convention from Shoshone county are concerned, they can just go home,



because they will have no interest in the state government whatever. It will completely fence them in, either with the amendment or as it was originally reported. They have now an indebtedness of several times the limit that is allowed by this provision and what are they going to do? They cannot incur another cent of indebtedness. The wheels of their government will be stopped, whenever you adopt that section, right there. The remarks of the gentleman from Shoshone who has just taken his seat---Mr. King---were simply based upon the idea that that section was to be interpreted that each one of those bodies might levy a debt of five per cent, and he demonstrated that the gross indebtedness might be fifteen per cent for all those purposes. However that may be, I move to strike out that section for the reason that it is not necessary that any section of that kind should be contained in the constitution, and because it strikes right at the life of our county government. We have now a bonded indebtedness of about \$150,000. We have a floating indebtedness of \$65,000, and an assessed valuation of only a little over a million dollars. Now you see where we stand. You see by the terms of this constitution that we can obtain no relief. The provision says "It shall never exceed," etc. There is not any condition or proviso or exception at all. We have a government that must be kept in motion. We have courts that must be held, officers that must perform their duty, processes that must be served in order to maintain good government and peace and order in our community. I hope the sense of the convention will be to strike out the section. (Motion seconded).

Mr. POE. Mr. Chairman, I heartily support the motion of the gentleman from Shoshone, Mr. Heyburn. I don't think these city corporations or town corporations ought to be circumscribed as to the powers of appropriation or indebtedness they may create. They are the parties who will have to suffer the consequences of any unnecessary schemes there may be that are

abetted by reason of an appropriation for any amount which may be excessive. They are the parties who are to be the judges as to whether they need that, and they ought to have a right to say whether they want to make certain improvements, and whether or not they feel able to make those improvements, and I don't think that it is the province of such a constitution to come in and presume that those men who are the owners of that property do not know what their wishes are, and say to them: You shall not appropriate any portion of this property for making certain improvements. I say, leave it to the people who are to reap the benefit or the damage of that. This is a republican form of government and the people of the municipality or county do ordinarily know their business, what is to their advantage, and we ought not to take that advantage away from them. I heartily support the motion to take that section out of the constitution, and leave the cities the opportunity if they see proper, to make appropriations for sewerage, sanitary purposes, or any other thing which in their judgment they may believe will inure to the advantage of their city or town or to their county. Leave it to them. It is nothing but just and right that they should have that privilege, and I therefore support the motion of the gentleman from Shoshone.

Mr. WILSON. For the purpose of this motion to strike out, I will withdraw my amendment, with the understanding that the motion to strike prevails; because, if the section does prevail it paralyzes different improvements in this city and will ruin municipal improvements in half a dozen towns in Idaho Territory. (Cries of "Question").

The CHAIR. The question is upon the motion of the gentleman from Shoshone to strike out Section 4. (Vote and carried).

Mr. ALLEN. Mr. Chairman, if there is any force whatever in the argument presented by the gentleman who asked to strike out this section, it applies with

greater force in regard to Section 1. I now move to strike out Section 1 as heretofore adopted by the committee. I think it is limiting the powers of the state in such respects as would prevent its prosperity and progress and prevent it from issuing bonds for carrying on public work.

Mr. AINSLIE. I would like to ask if the gentleman voted with the minority on that section. If he did he cannot make a motion of that kind.

#### SECTION 4.

SECRETARY reads Section 5 (4) and it is moved and seconded that the same be adopted. (Carried).

#### SECTION 3.

Mr. McCONNELL. I move that Section 3 as adopted be stricken out. (Seconded).

Mr. MORGAN. The motion is not in order, Mr. Chairman.

The CHAIR. There must be a motion to reconsider first.

Mr. ALLEN. I would like to ask if the motion to reconsider is in order in committee of the Whole.

The CHAIR. I think it is in order.

Mr. McCONNELL. Then I move to reconsider the vote by which Section 3 was adopted.

The CHAIR. Did the gentleman vote with the majority?

Mr. McCONNELL. I did.

Mr. MAYHEW. I may state we are violating every rule we have adopted here. I would like to ask the chair whether he can make a motion to reconsider.

Mr. MORGAN. I cite the chair to Rule 50.

The CHAIR. The chair rules that a motion to reconsider is not in order in committee of the Whole.

Mr. WILSON. I move that the article be adopted.

Mr. MAYHEW. I would like to ask if Section 5 (4) has been adopted.

The CHAIR. Yes, it has.



Mr. MAYHEW. I now move that the committee adopt the article as amended.

Mr. McCONNELL. Mr. Chairman, I move to amend the motion made by the gentleman from Ada by excepting Section 3 from the motion. (Seconded).

The CHAIR. The gentleman from Shoshone—

Mr. WILSON. I rise to the point of order that Section 3 has been adopted; it cannot be excepted except by a motion to reconsider.

The CHAIR. The gentleman from Shoshone, Mr. Mayhew, has the floor.

Mr. MAYHEW. I move that the committee rise, report progress and report Article 7 (8) back to the convention and recommend its adoption.

Mr. CLAGGETT. Will the gentleman from Shoshone withhold that motion a moment?

Mr. MAYHEW. I moved a while ago to adopt Article 7 as amended and I was told it was adopted; if not I renew the motion.

The CHAIR. The motion is now to adopt Article 7 (8). (Vote and carried).

Mr. CLAGGETT. Mr. Chairman, I move that when the committee rise it report this bill back to the convention, report progress and ask leave to sit again on this article. There is a section here which ought to belong to this article and which ought to go in. It is a matter that will call for some discussion. I have not had time to prepare it, but if the committee will allow me I propose to add this as an additional section.

#### PROPOSED SECTION.

“Whenever the market value of the county warrants of any county shall fall below 85 cents on the dollar, it shall be the duty of the county commissioners of such county to set aside not exceeding fifty per cent. of the revenues in any such year as a scrip redemption fund for the purpose of purchasing the outstanding warrants of the county, and the party or parties who shall, on public advertisement therefor, offer to surrender the largest amount of warrants for the least money, shall receive the money.”

I want to state one thing right away; I intend to draw this thing up as an additional section. There has not been any change made in the practical administration of the fiscal affairs of counties. We create a board of county commissioners and arm them with power without limit, provided they choose to use it, at least as to the ordinary expenses of the county without limit—to issue the promissory notes of the county. These promissory notes in the shape of county scrip are issued, and when they get to a certain point all the indebtedness except the fixed indebtedness provided by law, is duplicated or added to in that kind of shape which gives rise around every courthouse to a little ring of scrip purchasers, who form combines to still further depreciate the value of county warrants, and so it goes on from time to time until the county is absolutely bankrupt; and then the next proposition is to go down to the legislature with a funding bill—just what was done in the case of Shoshone county—go down to the legislature with a funding bill to fund in long-time bonds and take up the outstanding warrants, and that too by way of compound interest at a certain rate, and by means of which this indebtedness is fixed upon the county. Whenever the outstanding indebtedness in the county or a fresh issue of warrants in the county has a market value as low as 85 cents on the dollar, that county is bankrupt and should be treated as such, and the commissioners should be endowed with the power, by going into the open market and using a portion of the revenue coming into the general fund, to purchase in the outstanding indebtedness and destroy the occupation of those gentlemen who are depreciating county securities, and keep this scrip at par. That is no untried experiment. In 1865 in Storey county, Virginia City was in two years' time worked out of an indebtedness of nearly \$3,000,000 by this plan.<sup>1</sup>

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<sup>1</sup>—Nevada Sess. Laws 1865, p. 121: "An act to provide for the payment of the outstanding indebtedness of Virginia, Storey County."

Mr. MAYHEW. Do I understand this amendment of yours to reach that state of facts—will it reach that?

Mr. CLAGGETT. Yes. I do not know what the county scrip in my county is rated; it has never been quoted lower than it is now, but it rose a little to somewhere in the neighborhood of sixty cents. Now who gets the benefit of that deficiency except the parties speculating in the scrip? If the county commissioners had power to set aside 25 or 50 per cent of the amount of money arising from the general fund, to go into the market and purchase the outstanding indebtedness of the county, they would get the benefit of this deficiency and it would destroy the occupation of these scrip sharps around the county seat, and keep the credit of the county at par. I say that in getting up a constitution here, when we arm the board of county commissioners with full and unlimited power almost to create indebtedness, we should provide in the constitution and give them some power by which they can have the ordinary means of getting out of an indebtedness which an individual has, and for that reason I want to draw this article carefully, and for that reason I make my motion that when the committee rise it report the bill back, report progress and ask leave to sit again on this article.

Mr. MAYHEW. With that purpose I will withdraw my motion.

The CHAIR. The motion is that when the committee rise——

Mr. GRAY. Well the motion was made that the committee rise now.

Mr. CLAGGETT. I will modify the motion to that extent.

The CHAIR. The motion is that the committee rise, report progress and ask leave to sit again. (Vote and carried).

#### CONVENTION IN SESSION.

Mr. CLAGGETT in the Chair.

Mr. SHOUP. Mr. President, the committee of the



Whole have had under consideration the report of the committee on Public Indebtedness and Subsidies; have come to no conclusion and ask leave to sit again.

The PRESIDENT. Shall the report of the committee of the Whole be received? It is moved and seconded that the same be received. (Carried).

Mr. MAYHEW. I move that we take a recess until two o'clock. (Seconded and carried).

### AFTERNOON SESSION.

*Called to Order by President at 2:00 P. M.*

The CHAIR. The Chair will call attention of the convention to the fact that there are now lying upon the speaker's table some four or five different articles which have been fully considered in committee of the Whole and practically disposed of except bringing them up in convention and formally disposing of them. The committee on Enrollment and Revision will necessarily have a great deal to do, and the convention should as soon as possible, unless there are other matters before it, get at some of these matters which lay upon the speaker's table so that the committee on Revision can get to work; otherwise, we will conclude all our work at once and then have to wait.

Mr. BEATTY. Mr. President, I call attention—

The CHAIR. I do not understand that there is any regular order of business at this time—anything and everything is before the convention—if the gentleman will indulge the chair a moment. This morning the gentleman from Ada desired to bring up the resolution to expunge a resolution the chair held out of order at that time. If the gentleman desires to bring it up now, I presume the convention will consider it.

Mr. PEFLEY. Mr. President, I see the gentleman is not here who offered the resolution. I prefer to wait until he is here.

The CHAIR. I will inform the gentleman that Mr. Cavanah has gone away and does not expect to return.

Mr. PEFLEY. I prefer to let it lie over.

## DEBATE ON ORDER OF BUSINESS.

Mr. BEATTY. Mr. President, I called attention this morning to the fact that there is much business unsettled and that the committee on Revision ought to have some rule of procedure in order to avoid delay in this convention, and my view is formed from all the constitutions I have examined, that that provision of the constitution with reference to suffrage and elections naturally comes in order immediately after the Bill of Rights, and it ought to be considered now, so that when these matters are finally passed upon and referred to the committee on Revision, they may consider them in the order in which they will come in the constitution. I therefore move that we resolve ourselves into a committee of the Whole for the purpose of considering the minority and majority report of the committee on Elections and Suffrage. (Motion seconded. The question is put).

Mr. REID. Mr. Chairman, there are now on the calendar about seven reports, I believe. The report of the committee on Elections and Suffrage has not been put upon the calendar at all. The reports have just been printed and put on the table of the members this morning. We have been in continuous session ever since, examining a very important matter. There has been no time for members to compare the two reports to see wherein the difference lies. There is some difference—more difference than I anticipated from the article I saw in the daily paper this morning. I didn't know there was any difference only for one point, and from speaking to other members, I find we have had no time to look into this matter and I don't see why we should skip over seven regular orders here and go into this. If we should take them up in the order in which they come in the constitution, then there are other matters that come first. The executive comes first, legislative next and judiciary last. Every constitution that is arranged in order and every revising committee that arranged it in order, will start with the Bill of

Rights, Executive Department, Legislative Department, then the Judiciary and others follow in order. However, if this is done at caucus dictation, I have no more to say.

Mr. MAYHEW. When this convention adjourned this morning, the president of this convention gave notice—made quite a speech—that he would offer an amendment to the matter we then had under consideration. And the committee rose with the desire that we should sit again for the purpose of taking up the matter proposed by yourself to be considered in that committee. Now, as one of the members, I am opposed to jumping from one business undisposed of to another. If this is to be withdrawn, we will go into something else, but if that matter is going to come up again this afternoon, or whenever the committee takes up the matter, in fact postponed this morning—if this question is to come up I am opposed to considering any other matter until we complete the unfinished matter left over this morning. I think we should have considered that this morning. I don't know what object they have in going to pass the matter we had under consideration this morning and ask leave to sit again upon it. I do not know the purpose of it. There is no reason given and I hope the convention will not do so.

Mr. AINSLIE. Gentlemen, I rise to a point of order. The taking this out of the regular order as it appears upon the calendar is contrary to the rules of the body. Rule 51 is as follows: "All reports of committees, containing matter to be incorporated in the constitution, shall be considered in the order in which the reports are made, and upon their introduction and full reading before the convention, such matter to be incorporated shall lay upon the table, and be printed, and when printed shall be placed on the calendar to be considered in the committee of the Whole." Now, Sir, they should be considered in the order in which reports are made and this is one of the last reports made. Rule 59 provides that "These rules shall not be altered,



except after at least one day's notice of intended alteration, and then only by a vote of the majority of those elected to the convention, and no rule shall be suspended except by two-thirds of those present." Now the calendar is the calendar of bills that have been reported to the committee of the Whole, upon which calendar are propositions for final readings. Now this matter has not been read in convention at all, except the report of the committee; it has never been in committee of the Whole at all, and the propositions for final readings and all special orders shall be placed in the priority in which the orders are made. (Rule 58). "Upon such calendar all propositions for final readings and all special orders shall be placed in the order of priority in which the order is made. Propositions for a final reading on a particular day, not reached on that day, shall be placed first upon the calendar in the order of final reading of each succeeding day until disposed of." Now, while our calendar has been made up and the reports of the different committees have been presented to this convention, I maintain that under the rules the calendar only properly contains those propositions which have been reported to the committee of the Whole. Even taking that horn of the dilemma, there are a half dozen propositions committed to the committee of the Whole that are now ready for action of this convention upon the calendar as reported by the committee of the Whole. This being one of the last reports (Rule 51) it cannot be considered even in committee of the Whole until

Mr. MORGAN. I think this order can be changed by a simple vote of the convention, as will appear by Rule 58: "No proposition found upon the calendar shall be taken up and read by the secretary out of its order thereon, except by direction of the convention." That indicates that by the direction of the convention it can be so done.

Mr. AINSLIE. That is a proposition as to final readings. This has not been read by section yet—has not been reported in the committee of the Whole. That

belongs to matters committed to final reading. "Upon such calendar all propositions for final readings and all special orders shall be placed in the order of priority in which the order is made." The gentleman cannot construe that into meaning the first reading of a bill or article.

The CHAIR. Rule 51, upon which the gentleman from Boise rises to a point of order, is as follows: (Reads Rule 51). You see the provision with regard to being considered in the order in which they are placed upon the calendar is left out. It leaves it in the power of the convention to consider any bill, as the chair understands it, at any time, as it may see fit. In other words, the convention has not seen fit to bind itself by a cast-iron rule to take up matters in the order in which they get them from the calendar, no matter how urgent may be the business. Therefore the chair is obliged to hold——

Mr. MAYHEW. Can we then, under the regular other reports that were made before have been considered in committee of the Whole. I make the point of order.

order of business, skip from that matter we had under consideration this morning in the committee of the Whole?

The CHAIR. If the motion had been made this morning, that the committee do now rise, report further progress and ask leave to sit again upon the re-convening of the convention after recess, it could not; it would remain as unfinished business and would require a motion to suspend the rules, but the chair understands that whenever the committee of the Whole reports and asks leave to sit again without fixing some time for the sitting, that the report of the committee lays upon the table like any other report and does not constitute unfinished business in any sense.

Mr. MAYHEW. I now move that the convention resolve itself into committee of the Whole for further consideration of Article No. 7 (8). (Seconded).

Mr. BEATTY. I rise to a point of order. There is a motion before the body, and this motion of the gentleman is not an amendment to that motion in any way. A motion was made and seconded also that we resolve ourselves into committee of the Whole for the purpose of considering this report of the committee on Elections.

Mr. MAYHEW. I am satisfied that the gentlemen have this to suit themselves, but I desire to call the attention of this convention if they are disposed to do the last thing at first. It is nothing more than fair, it is nothing more than legitimate, it is nothing more than parliamentary to consider the matter as unfinished and continue the sitting upon that question until it is disposed of. For some reason unknown to me or anybody else, I suppose, in this convention, except perhaps the gentleman himself, he wants to omit or pass over the matter we had here under consideration this morning and take up some other matter. Now I say it does not make any difference, and so far as this motion is concerned, if the motion has been made to go into committee of the Whole to consider the matter we had up this morning, to say it was omitted by the motion when the committee rose is rather technical, Mr. President, entirely so. And I say, Mr. President, it is not parliamentary, although this convention by a majority perhaps can repeal every rule here we have adopted heretofore, but I ask for what reason it is that these matters be postponed and we take up another matter at this period? The gentleman says he rose to a point of order because he has made a motion to take up a different matter. Now we considered this morning a matter which was really out of order and went into committee, now you are going to omit considering that bill and go into another matter out of its order to please one or two members of this convention. I hope, Mr. President, that when we have a matter under consideration in the committee of the Whole we will dispose of it as we go along. And I insist, so far as I am concerned, that we



resolve ourselves into committee of the Whole to consider this matter.

The CHAIR. I can give the gentleman from Shoshone some information on one point, at least, of his remarks. On the adjournment of the convention this morning my attention was called by Mr. Hays, delegate from Owyhee county, to the fact that there was an old special law<sup>1</sup> which had been passed by the territory of Idaho some fifteen years ago, applicable to Owyhee county alone, with reference to these current expenses and redemption fund, which I sought by the amendment I offered to cover. I requested him to get me the law so that I might draw that section. I only got it five minutes before the convention convened. The chair holds that the motion of the gentleman from Shoshone is in order as an amendment to the motion made by the gentleman from Alturas. The gentleman from Alturas moves that the convention do now resolve itself into committee of the Whole for the purpose of considering the majority and minority reports of the committee on Suffrage and Elections, and to that the gentleman from Shoshone offers an amendment that it go into committee of the Whole for the purpose of further considering the measure we had up this morning. The vote should be first upon the amendment. (Vote). The chair is in doubt. (Division called for. Rising vote taken. 20 in favor; contrary, 25). The amendment of the gentleman from Shoshone is lost.

Mr. MAYHEW. I call for the ayes and nays.

Mr. REID. I second the motion.

Mr. MORGAN. I rise to a point of order. You can't call for the ayes and nays in committee of the Whole.

The CHAIR. We are now proceeding in convention and his motion is in order. (Roll-call).

Ayes—Ainslie, Allen, Anderson, Batten, Bevan, Blake, Chaney, Clark, Coston, Crutcher, Harris, Hagan, Jewell, King, Kinport,

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<sup>1</sup>—Secs. 844, 845, Special and Local Laws of Idaho. (1887.)

Mayhew, McMahon, Myer, Parker, Poe, Reid, Taylor, Vineyard, Pefley.—24.

Nays—Ballentine, Beatty, Brigham, Campbell, Gray, Hampton, Harkness, Hasbrouck, Heyburn, Howe, Lewis, Maxey, McConnell, Melder, Morgan, Moss, Pinkham, Pritchard, Salisbury, Sinnott, Shoup, Sweet, Underwood, Whitton, Wilson, Mr. President.—26.

The CHAIR. The vote on the motion stands, ayes 24, nays 26. The motion is lost.

Mr. AINSLIE. I move a call of the convention. (Seconded).

The CHAIR. It has been seconded by five members. (Seconded by a half dozen. Division called for. Rising vote, ayes 22; nays 26).

Mr. AINSLIE. I call for the ayes and nays on that motion. (Roll-call).

Ayes—Ainslie, Anderson, Batten, Bevan, Blake, Chaney, Clark, Coston, Crutcher, Gray, Harris, Hagan, Jewell, King, Kinport, Mayhew, McMahon, Myer, Parker, Pinkham, Reid, Taylor, Vineyard.—23.

Nays—Allen, Ballentine, Beatty, Brigham, Campbell, Hampton, Harkness, Hasbrouck, Heyburn, Howe, Lemp, Lewis, Maxey, McConnell, Melder, Morgan, Moss, Pierce, Pritchard, Pyeatt, Salisbury, Sinnott, Shoup, Sweet, Underwood, Whitton, Wilson, Mr. President.—28.

The CHAIR. The vote upon the motion for a call of the convention stands, ayes 23, nays 28. The motion for a call of the convention is lost.

AINSLIE. I move the convention adjourn until tomorrow morning, at ten o'clock. (Seconded).

The CHAIR. All in favor of the motion say aye. (Division called for. Rising vote. 19 in favor, 30 opposed). The motion is lost.

Mr. REID. I rise to a parliamentary inquiry. I desire to know if under Rule 18, a motion for a call of the house having been sustained by one-fifth of the members, a call was not in order. Any member has a right to demand a call of the convention, the demand shall be sustained by one-fifth of the members present.

The CHAIR. The chair is clearly of the opinion that any one member may call——

Mr. REID. A call was made; the vote was put as whether it should be sustained.

The CHAIR. What is the rule you refer to which——

Mr. REID. Rule 18. Objection was made to the call and then the demand was sustained by one-fifth, the same as a call for the ayes and nays. The vote was put on the ayes and nays whether the demand should be sustained for a call of the convention and the chair rules it was not sustained, although more than one-fifth voted. I rise to know what the meaning of that rule is. I take it, Mr. President, that two members can demand the ayes and nays. If objection is made, it must be sustained by one-fifth of the members. A member can make a demand for a call of the convention. If objection is raised under Rule 18, he has to be supported by one-fifth, and you put the convention call which was not only supported by one-fifth but they stood 24 to 28.

The CHAIR. The chair is of the opinion that that construction of the rule is not sound. Otherwise the entire convention might be here on a division and the vote to call would be going on forever although they are all there. Any three members have the right to demand a call of the convention, but if objection is made to the demand, it shall be sustained by one-fifth, that is, it demands one-fifth to put it to a vote as to whether there shall be a call of the convention, I think. It would not be wise to adopt that rule here.

Mr. REID. I ask the chair how it construes the rule for the demand of the ayes and nays. It reads in the same way.

Mr. MAYHEW. I would also ask for information, for the members, according to the chair's opinion about this, say the full membership here—all members present—could continue the call. You cannot continue the call when all members are in their seats, but this is for the purpose of bringing in the vote, that the minority members—one-fifth present—can demand a call of the



house; otherwise the rule is nugatory.

The CHAIR. The chair cannot understand the rule in that way. It is susceptible of two interpretations, evidently, but the chair adopts that which necessarily facilitates the business of the convention. To say that one-fifth can hold all the other members of the convention here until the last member appears, although a large majority or nineteen-twentieths of those voting—not that many, however, but four-fifths of those present, should have voted to sustain a call or not to have a call, would be to say that we have a rule by which one-fifth of the members could block the whole proceedings of the convention, and under a rule that admits of two interpretations, the chair can do nothing but adopt that interpretation which facilitates business.

Mr. AINSLIE. The rule is perfectly plain, if it is divided properly, in my opinion. Any three members have the right to demand a call of the convention, is the first proposition stated in the rule; but, if objection is made to the call of the convention, then it shall require one-fifth of the members present to sustain a call. That is the only English interpretation that can be put upon that rule in God Almighty's world. If it requires a majority of the members present to sustain a call of the convention, there never would be any such a thing as a call. Where there is a quorum present, two-thirds of a political party might be absent, and then by requiring a majority of the members present to demand a call of the convention, you never would have one party represented at all only by half a dozen members, probably, and gentlemen, I was going to say, will remember that rules are made for the protection of the minority; the majority is able to protect itself. That matter has been decided time and time again in all other legislative bodies than this, and I say all rules are made for the protection of the minority and no other construction can be placed on Rule 18; that where three members—three members can stop the proceedings of this convention. If it is objected to, then it shall be

put to the convention and one-fifth of the members voting have the right to have that call to have the absentees come in or know why they are absent, because you have a rule here that no member shall absent himself without the consent of the body. That is the only reasonable construction to put upon the rule. I know that construction is put upon it in the house of representatives of the United States and we are operating under the same rule. I have seen it done a thousand times. I would ask the secretary of the convention whether one-fifth of the members——

The CHAIR. I shall not hear the gentleman from Boise. The chair has never seen that construction followed with regard to language of this kind. It strikes me the construction of the rule by the chair is correct. I haven't had time to consider it, but in the absence of some authority upon the subject, of course the chair will have to adhere to its ruling, and if the gentleman is not satisfied with the ruling, he can appeal.

Mr. AINSLIE. Appeal? Appeal against the republican caucus? (Laughter).

The CHAIR. The question arises upon the motion made by the gentleman from Alturas.

Mr. AINSLIE. I move this convention adjourn to meet at 9 o'clock tomorrow morning.

The CHAIR. I think we have a rule to the effect that when any proposition is before the convention—that may be, however, on the previous question. I will put the question. It is moved and seconded that we adjourn until 9 o'clock tomorrow morning.

Mr. BEATTY. I would ask if the last motion is not to adjourn.

The CHAIR. That is all covered by the last motion to adjourn because that is our regular hour and the same motion cannot be repeated until there is some——

Mr. AINSLIE. I will say half past 8 o'clock then.

The CHAIR. It is moved and seconded that the convention adjourn until half past 8 tomorrow morning. (Vote).

Mr. AINSLIE. Division. (Rising vote, 20 in favor, opposed 29. Motion is lost).

Mr. AINSLIE. I call for the ayes and nays. (Seconded. Roll-call).

Ayes—Ainslie, Anderson, Batten, Bevan, Blake, Chaney, Clark, Coston, Crutcher, Hagan, Jewell, King, Kinport, Mayhew, McMahon, Parker, Pefley, Poe, Reid, Taylor, Vineyard.—21.

Nays—Allen, Ballentine, Beatty, Brigham, Campbell, Gray, Hampton, Harkness, Hasbrouck, Heyburn, Howe, Lamoreaux, Lemp, Lewis, McConnell, Melder, Myer, Morgan, Moss, Pinkham, Pritchard, Pyeatt, Salisbury, Sinnott, Shoup, Sweet, Underwood, Whitton, Wilson, Mr. President.—30.

Mr. BEATTY. I now demand the previous question, on the motion I made to resolve ourselves into committee of the Whole.

Mr. MAYHEW. That was carried.

Mr. McCONNELL. No, it was not. I seconded the motion.

Mr. AINSLIE. I believe the motion to adjourn takes precedence—my motion to adjourn until 8:30. Then I move we take a recess until 8 o'clock in the morning.

The CHAIR. Before that motion was made, the gentleman from Alturas demanded the previous question, upon the motion pending before the convention, namely, that the convention now resolve itself into committee of the Whole for the purpose of considering the two reports of the committee on Suffrage and Elections.

Mr. AINSLIE. I move to lay that motion on the table and on that call for the ayes and nays.

The CHAIR. The motion is made to lay the motion for the previous question on the table. (Division called for. Rising vote shows 22 in favor; opposed, 28). The motion to lay upon the table is lost. The question recurs upon the motion of the gentleman from Alturas.

Mr. AINSLIE. As there is no other business in convention, I move a call of the convention again.

The CHAIR. The chair will rule it is out of order, having once been disposed of.

Mr. BEATTY. Besides that, Mr. President, after



the motion—I call the house's attention to Rule 19—after the motion for the previous question, but two other motions can be entertained until that is decided.

Mr. AINSLIE. Rule 20—on a motion for the previous question, prior to voting on the same, a call of the convention shall be in order, also in addition, the motion to adjourn and take a recess.

Mr. REID. I call your attention to page 103 of Cushing's Rules: "If it passes in the affirmative it may be rescinded or the subject may be reconsidered." And it has been held that the speaker with one-fifth may make a call of the convention, and as the chair will doubtless know, frequently in filibuster proceedings the minority call the house repeatedly when they have a large majority.

The CHAIR. I am aware that is true under the rules of the house of representatives, but our rules in governing this convention fall very short of the rules of the house of representatives. I call the gentleman's attention to Rule 19, which I think covers the case. "Any five members have the right to demand the previous question. The previous question shall be put in this form: 'Shall the main question now be put?' and until decided shall preclude further debate, and all amendments and motions, except one motion to adjourn and one motion to lay on the table." Both of which have been had. "All incidental questions, or questions of order, arising after a motion is made for the previous question, and pending such motion, shall be decided, whether on appeal or otherwise, without debate."

Mr. REID. I ask the chair, after the gentleman's motion was put at the time, how did we vote on the motion of the gentleman from Shoshone to take up the regular order and go into committee of the Whole, after he had a motion to go into committee of the Whole to take up this matter and the gentleman made some motion, but not a substitute—how did we vote on that?

The CHAIR. The motion was first of the gentleman from Alturas to vote—

Mr. AINSLIE. I will call——

The CHAIR. The gentleman from Shoshone offered an amendment that it go into committee of the Whole on another bill. The amendment was voted down and then the whole question came back upon the original motion of the gentleman from Alturas. In consequence of the inability of the chair to find this rule which it had never looked over only this afternoon, all of those motions which have been had for calls of the convention and so on are out of order, except one motion to adjourn and one motion to lay upon the table, both of which have already been had. Therefore the chair holds that the motion for the previous question is before the convention.

AINSLIE. Does the chair hold that Rule 20 does not apply in this case? The first part of it, it seems to me, is as plain as the English language can put it.

The CHAIR. The chair will hold with regard to Rule 20 that it seems to be an addition to Rule 19 to that effect. I will hold that one motion for a call of the convention is in order after a motion for the previous question has been made.

Mr. AINSLIE. That is reversing the rule. Prior to a vote on the same, a call of the convention would be in order.

The CHAIR. That is what I say. If a motion is made or a call is made for the previous question, one motion for a call of the convention is in order and one motion to adjourn and one motion to lay upon the table, and Rule 19 and the first part of Rule 20 seem to belong together.

Mr. AINSLIE. I would ask every democratic member of this convention to remain silent and not vote and leave the republican party of this convention without a quorum. I ask that as a democrat. We have had no democratic caucus in this matter; the republicans have been in caucus.

Mr. BEATTY. I rise to a point of order. I don't think the gentleman has any right to make any such

representation as that, there being no motion before the convention—no proceeding before the convention that justifies any appeal of that kind to democrats or republicans.

Mr. AINSLIE. I leave it to the sound conscience of every democrat in the house. I propose that all have justice in this convention or I for one shall leave this convention.

Mr. POE. Mr. President, we stand in this position: We know that the caucus has been held; we know that prior to the convening of this convention after dinner that the noses of the parties had been counted and considered. It is well known to the leaders of this republican party upon that side of the house just how many democrats are absent and how many——

Mr. BEATTY. I rise to a point of order.

Mr. POE. ——and how many there are upon the other side.

The CHAIR. The presiding officer will hold these matters in reasonable—allow reasonable debate.

Mr. POE. All we ask is fair play.

The CHAIR. By consent the gentleman may proceed.

Mr. POE. That is the proposition—by consent that I do it. Under this rule here, Rule 48, the calendar of each successive day's business shall be prepared by the secretary, printed and laid upon the desk of each member every morning. Now, that has been done. Upon such calendar all propositions for final readings, all special orders shall be placed, in the order of priority in which the order is made. Now here you see, here is the order that they come before us—just precisely as they appear upon that calendar.

Mr. BEATTY. I would like to ask the member a question.

Mr. POE. This, as I understand it, is the order of business.

Mr. BEATTY. Mr. President, I desire to ask the member a question, with his permission.



Mr. POE. I yield.

Mr. BEATTY. I would like to know why the gentleman did not make objection this morning when we changed the regular order of business and went to another.

Mr. POE. Because Mr. Savidge, chairman of that committee, requested it, and it was taking up something that had already been placed upon the calendar that came in its regular order. Here the attempt now of the convention is to take up something that is not upon the calendar at all, and, as I understand this rule that this is the procedure—to be taken up by the convention as it appears upon this calendar, just precisely in the order in which it occurs upon the calendar. Now, then, the object and the intention of this convention is to take up something out of order in order to get political advantage, it seems to me; and Rule 59 says these rules shall not be altered except after at least one day's notice of the intended alteration. Now it strikes me, Mr. President, that whenever we take up any business that is not upon this calendar, then we are going contrary to Rule 58 which I have just read, and this says this rule shall not be altered except by a two-thirds vote. Now it seems to me if this convention wants to go outside of the regular order of business and take up something else which it was not entitled to take up under the rule, then it would be proper for them to do, so provided two-thirds of this convention are willing to suspend that rule, and if two-thirds of this convention vote in favor of the suspension of that rule and to take up the matter which is under consideration now out of its regular order, I shall not have a word to say.

The CHAIR. The whole proceeding of the convention up to this date, in one particular, has been had without paying very much attention to rules. I will refer the gentleman from Nez Perce to Rule 49 and by reading Rule 49 and the rule which he has just invoked, we can get out of this muddle so far as the

regular order of our business is concerned. Rule 49 provides, that is, the part the chair calls attention to: "After being reported, the propositions, with amendments thereto of the committee of the Whole, shall be immediately taken up for consideration, unless it shall be otherwise ordered by the convention and again be subject to discussion or amendment before the question to engross for final reading shall be taken." In other words, this matter all precedes that which is found in the rule relating to the calendar. The convention, after the report of the committee of the Whole, considers its report and passes it to the committee and fixes a time for the final reading. Then Rule 58 comes in. We have not as yet had a final reading and that is what the chair called the attention of the convention to at the very opening after calling the convention to order—that there was practically nothing of it disposed of. We have had no final readings and nothing presented for a final reading. If anything had been ordered to final reading and placed upon the calendar for that purpose, then the point of order would be well taken that they have to be considered in point of priority; but as the chair called the attention of the convention once before to this Rule 19, there is no priority on the calendar so far as matters are concerned that are submitted to the committee of the Whole. That is left out of the rule.

Mr. COSTON. Was not this point of order taken upon a call of the house—of the convention? Is not that the question upon which this point was raised?

The CHAIR. What point of order is that?

Mr. COSTON. Now pending.

The CHAIR. I did not understand there was any point of order before the house. This discussion has been going on——

Mr. COSTON. You didn't know their appeal was taken from the decision of the chair as to the manner in which the vote was announced from the chair upon the call of the house?

The CHAIR. The chair did not hear it if it was.

Mr. REID. The point of order was made.

Mr. COSTON. Well, isn't it upon that this appeal is taken?

The CHAIR. No appeal has been taken. As this matter stands now, it stands upon the motion of the gentleman from Alturas demanding the previous question, which has been seconded by more than five members, and after that—after this call is made, there can be but three motions, one to adjourn, one to lay upon the table and one for a call of the house, under Rules 19 and 20.

Mr. AINSLIE. Mr. President, we desire nothing but what is fair and honorable and upright in this matter, and we are willing to make a proposition to the other side—the majority—of that committee which we think is nothing but just to the minority and to all parties on the floor of this convention. I would therefore suggest, if it reaches the views of the majority, that we make this matter the subject of special order for Friday morning at ten o'clock and go through all the other business before that time in committee of the Whole. That will give the parties plenty of time to consider this question and examine the reports of the majority and minority and compare them and make up their minds definitely as to which report they will support. There is nothing but fairness and justice in that and we hope they will accept it. If not, we will resort to every known parliamentary rule and dilatory motions that may be necessary.

Mr. BEATTY. I am always ready——

The CHAIR. This is all out of order, but by general consent any motion is in order upon a call for the previous question. If the gentleman from Alturas temporarily withdraws his motion for——

Mr. AINSLIE. I just make that proposition to the gentleman representing the majority of the committee. I just want to see whether they are disposed to be fair



or not. I make the proposition that it be made a special order for Friday morning at 9 o'clock.

Mr. BEATTY. If the chair will not rule me out of order, I will reply to that. I was about to say that I am always ready to accept any proposition that is fair with the view of having the proceedings of the convention harmonious, but to defer this matter until away beyond the time it would be reached in any ordinary proceeding is not a fair proposition, in my opinion. Moreover, I know that a great many members of this convention are talking of going home and there is no telling how many we shall have Friday morning. I will agree to this: These reports are very brief. Any member of this convention can satisfy himself in twenty minutes' examination as to how he will vote on this question. Certainly they can satisfy themselves by tomorrow morning. I am willing to defer this matter until tomorrow morning at 9 o'clock, if it can then come up without any delay, and consider this matter fairly. And so far as I am concerned, I can't see what the objection is to considering it now.

Mr. REID. Will the gentleman allow me to interrupt him? I will state this: I am just in this situation, I was elected under the joint call I hold in my hand of two committees, and at the proper time I propose to say something about the partisan aspect of it, if it is necessary, to put the minority I broadly represent here, in a proper light. As I stated, these two reports were put in here this morning. I heard the propositions when they were before the democratic caucus and came from the republican caucus and the two propositions were going back and forth. I heard them read, but gentlemen know that you cannot retain them in your minds. I noticed an article in the paper this morning commenting on the republican majority report, and after an examination of it, I may vote for the very part on which the question is raised, but I haven't even had time to read over the two reports that were laid on our desks this morning, as I intend to do tonight. No gentleman here has studied it out—we have been busy with our committee work. As soon as we get our

breakfasts, we come here at 9 o'clock and hurry back. We will be late this evening and I know some of us will be engaged—we may hold a night session. Tomorrow some of us have got to be engaged extending courtesies to the gentlemen who are visiting us. The democratic caucus, if they desire to hold one, or the members who desire to look it up, will not have time. Now I make the proposition to the gentleman, after they consult with Mr. Ainslie who made the first proposition, that this whole matter go over until Thursday morning at 9 o'clock, to be the first order, and I will agree with them that they may go through that in committee of the Whole—end it there—go right back into convention and dispose of the matter finally.

Mr. MORGAN. Wednesday morning?

Mr. REID. Thursday—Thursday morning. Thursday is the time, because we will not have time tomorrow, I know.

Mr. AINSLIE. We have plenty of business to keep us busy all the time between now and then. We have had no time to look into this matter. Representing the democrats, I will say for them now that no obstacle will be thrown in the way of considering this, and that is usual when a matter of this sort is as threatening. It is one of the most important matters this convention will be called to act on at all. It is a matter involving a vital question—the question of suffrage. They are all important questions. We will resort to proper measures to protect our rights in this matter or to give us proper consideration in this matter that it may not be thrust upon us. The gentlemen have considered their side of it and will no doubt pass it if they wish to, but we want—the members who represent the minority report, time to consider this question well, and we simply ask the chairman, who has the matter in charge, to agree by general consent, as is frequently done in the house of representatives, that this matter go over and be taken up the first thing Thursday morning, and then we will throw no obstacle in the way of considering it section by section in the committee, then go back in

the convention and finally dispose of it. I make this proposition for the democratic side now to the republican side, in this public manner and do it in a non-partisan way, but I say no obstacle will be thrown in the way of its speedy determination by the democratic party in this house. (Question! Question!).

Mr. BEATTY. I am, I confess, rather astonished to find there is so much contention upon this question as seems to be. I had hoped and thought, a few days ago, the two parties would have no trouble whatever when this question was reached to arrive at an amicable conclusion. I find it is to be decided with more difficulty than any other matter here. I supposed we all substantially agreed upon this question and that the technical differences between these two reports could be reconciled, especially after we all make out what we have professed here—that we desire to exclude from the franchise in this territory those people who are not American citizens and are not entitled to the franchise; but it seems this question, as soon as broached, is made the badge of opposition. Now my friend from Nez Perce proposed that this matter be passed over until Thursday morning. I will call attention of the convention to the fact that if we take up every report in its regular order, that long before Thursday morning this report ought to be reached.

Mr. REID. Well, let this report, then, come up in its regular order, if that is the only objection; that is what we have contended all along.

Mr. BEATTY. No, I will not agree to that. That may admit of filibustering upon all this question.

Mr. REID. I feel authorized to say from the conferences I have had with the gentlemen, that no obstacle will be thrown in the way of its consideration when it comes up in its regular order or Thursday morning, either. All we want is time to consider it.

Mr. BEATTY. I have another proposition to make. My friend from Nez Perce says he wants time to consider this. It certainly cannot be that he wants time



simply for himself—for a man of his clear head and ability can consider this question in fifteen minutes, or half an hour, at least. My friend from Nez Perce at least does not need until Thursday morning to determine what he shall do in this, nor do I think the clear heads of my democratic friends need so much time as that. I would be sorry indeed to put them in the category of being unable to digest a matter of such brevity as these reports, for you will see upon an examination of them, they will only cover, each of them, two pages. Now if this question can be settled, I will propose that it be disposed of on Wednesday instead of Thursday morning. I have met each proposition of the gentleman now by a new suggestion and that is as far as I, for one, feel like going—for by Wednesday morning, if we work upon this calendar as we ought to work upon it, we will have reached that question and probably beyond it. Now I think we had better remember here if we desire to have a constitution to be submitted to the people at all, we must work. I know there are many members in this convention who will not remain here longer than this week. I know it from statements people made to me from time to time, and we have no law to compel them to remain here. If we are here in good faith to establish a constitution for the state of Idaho, we must get to work in that spirit, and if we work as we ought to work, we will reach this long before convening on Wednesday. I make this proposition and if that isn't fair, I know not what proposition can be made to these gentlemen that they would consider fair.

The CHAIR. This seems to have settled down to a proposition between two sides of the house, and I would suggest that you leave matters stand as they are now. You can get at it a good deal easier if you take a recess of fifteen minutes and consult informally and come to some conclusion.

Mr. MAYHEW. I have a word, Mr. President, to say about this matter. Now I can't understand why it

is, after we came in here, that all these matters undone here on the order of business are to be postponed to consider this matter of suffrage. It was not intimated this morning—no person has ever suggested it to a single democratic member. Now this morning we skipped over two or three matters to take up a matter that the gentleman suggested, and did so without opposition and that was the matter in relation to public indebtedness. Now there was the report of the committee on Public and Private Corporations, the report of the committee on Public Indebtedness and the substitute taken up and considered this morning. Now after partially considering this subject, they propose to omit further consideration of that article for the present and skip the report on Municipal Corporations—I believe that was the one we were considering when we adjourned—and omit the consideration of the report on Schools and Education and University Lands, and to omit the report of the committee on Manufacturing, Agriculture and Irrigation and take up the report of the committee on Elections and Suffrage. I would like to have the gentlemen speak fairly about this—I would like to hear some member on the republican side—some of our republican brethren, give us some reason why they desire to do this; what is the purpose and the object, Mr. President, to omit the consideration of these other articles when they are lying ahead of them, to take up this question of Election and Suffrage. Now all members, I suppose, in a convention of this kind, are a little jealous of their rights, and I think the democrats are a little jealous of their rights in this matter, and I cannot see—I haven't heard a single suggestion nor a reason given by a republican why you wish to jump from one to another and omit further consideration of the matter we had in the committee of the Whole this morning. If there was any haste in this—if the republicans were going to lose some of their members as the democrats have by getting leave of absence, I would not then be astonished at their anxiety to consider the subject, but I see they are more anxious to

remain here than the democrats are, because the latter are going away very rapidly. Now, I say it is nothing more than fair, as long as we are in this dilemma, that this matter be omitted until Thursday morning and go on considering these other matters, and if we get through with those other subjects or other articles before that time, I, as one of the democrats, will have no objection to take it up in its order. I recollect further, Mr. President, that this printed report was only returned this morning. Of course, I have my mind made up how I shall vote on the question—perhaps others have not—because I have heard a great deal of discussion in the committee. And I say this, I don't see, as this matter has just been printed this morning, that all members of the convention are prepared to vote upon this question. I think some democrats are not prepared—have not had time to consider this matter fully. I have no doubt the republicans have, because I am certain they have been fully advised upon this subject, but the democrats have never had any caucus and never directed their members how to vote on this question. So I say, Mr. President, it is nothing more than fair we should vote on Thursday morning, and if we do not do it, I hope some member of the republican party will give us some reason why they are jumping over all these matters to consider this report on Election and Suffrage.

Mr. ALLEN. I move we take a recess of ten or fifteen minutes.

Mr. MAYHEW. I move to amend that by saying a recess of twenty minutes.

The CHAIR. It is moved and seconded that the convention take a recess of twenty minutes. (Motion carried and the house goes into recess for 20 minutes).

Mr. REID. The democratic caucus will meet in the senate chamber.

Recess.

Convention called to order at 4:00 p. m.

The CHAIR. The democratic members of the con-



vention request a delay of fifteen minutes, at which time they will be ready to return to the convention hall. If there is no objection, we will take a formal recess of fifteen minutes further.

### CONVENTION IN SESSION.

The CHAIR. The question before the convention, gentlemen, is the motion made by the gentleman from Alturas demanding the previous question upon the motion to go into committee of the Whole for the purpose of considering the majority and minority reports of the committee on Suffrage and Elections.

Mr. BEATTY. Mr. President, before withdrawing the motion which the chair has just announced as the next order of business, and offering the resolution which I hold in my hand, I desire to say to this convention that the motion which I made was made without any sinister purpose whatever, and I desire also, in that connection, to remind the convention that this morning without any consultation with any one I made this motion. My chief object in making it was that this question, which I consider an important one, may be met while a large majority of the convention is present, believing, as I do, that by the end of the week the convention will be largely scattered, if the members state what they really mean, because I have been informed by many that they intend to leave, but I, for one,—

Mr. GRAY. Well, I would like to see what proposition they are going to have first.

Mr. BEATTY. I propose to meet them with our own proposition before I wait for any proposition from our democratic friends. I do this with the hope that we are to have no wrangling whatever upon this question.

Mr. REID. I understood that we had met and agreed upon the time when it may be taken up.

The CHAIR. The gentleman from Alturas—

Mr. REID. That may follow with an explanation on the other side, but I don't think it is necessary. We

just disagreed about the time and we have now agreed on the time. I don't know what the gentleman has embodied there.

The CHAIR. The gentleman from Alturas will read his resolution, if he has one.

Mr. BEATTY. I withdraw the motion I have pending before the house upon the previous question, and offer this resolution which I have sent to the clerk's desk to be read.

SECRETARY reads: *Resolved*, That Thursday morning at 9 o'clock, be fixed for the consideration of the majority and minority reports of the committee on Suffrage and Elections. That at that hour, as soon as the Journal shall be read, the convention will resolve itself into a committee of the Whole for this purpose. That on the report of the committee of the Whole being made to the convention, the convention will immediately and finally dispose of the subject, and that all proceedings in committee and convention shall be free from all motions offered for delay.

Mr. REID. Second the motion. (Vote).

The CHAIR. The ayes have it and it is so ordered. What is the further pleasure?

Mr. REID. I move that the convention resolve itself into committee of the Whole for the consideration of the business unfinished this morning when the committee rose. (Motion is seconded). It was Municipal Corporations, I think—Report No. 7, I think.

The CHAIR. The bill was relating to public indebtedness, and it was held over so that we may draw an additional section. I stated once before that I hadn't had time to draw that—I want to consult a statute I had.

Mr. REID. Then I will amend the motion, that that be omitted for the reason the chair has stated, and that we take up the next in order on the calendar, which is No. 8, committee on Municipal Corporations.

Mr. GRAY. I understood that was passed over for Mr. Savidge.

Mr. REID. No, that was No. 6, I understand. So I will make the motion for the convention to resolve itself into committee of the Whole for the purpose of taking up Report No. 8—Municipal Corporations.

The CHAIR. It is moved and seconded that the convention resolve itself into committee of the Whole for the purpose of taking up Report No. 8, on Municipal Corporations. (Vote). Motion carried.

### COMMITTEE OF THE WHOLE.

Mr. McCONNELL in the Chair.

#### ARTICLE 12—MUNICIPAL CORPORATIONS.

The CHAIR. The subject for consideration is the report of the committee on Municipal Corporations.

##### SECTION 1.

SECRETARY reads Section 1. Moved and seconded that it be adopted. Carried.

##### SECTION 2.—(AFTERWARDS STRICKEN OUT)<sup>1</sup>

SECRETARY reads Section 2. Moved and seconded that it be adopted. Carried.

##### SECTION 2.

SECRETARY reads Section 3 (2). Moved and seconded that it be adopted. Carried.

##### SECTION 4.—(STRICKEN OUT).

SECRETARY reads Section 4. Moved and seconded that it be adopted.

Mr. BEATTY. Mr. Chairman, I move to strike that out for the reason that it is substantially covered by Section 3 of Article 7 (8). And likewise the following section. I suggest this: If the clerk will read Section 3 of Article 7 (8), then we follow Section 4 in Article

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<sup>1</sup>—See debate on p. 636.



8 (12), you will find they are substantially the same.<sup>1</sup>  
(Seconded).

The CHAIR. It is moved and seconded that Section 4 be stricken out.

Mr. PEFLEY. My understanding is that Section 3 of the other was stricken out.

Mr. MORGAN. No sir; it was adopted with some amendments.

Mr. BEATTY. I would suggest that the clerk read Section 3 of Article 7 (8), in the meantime we follow Section 4 and see that they are substantially the same.

The CHAIR. Will the clerk read for the information of the committee?

SECRETARY reads Section 3 of Article 7 (8).

The CHAIR. The question is upon the motion to strike out Section 4. ("Question, question"). Carried.

### SECTION 3.

SECRETARY reads Section 5 (3).

The CHAIR. It is moved and seconded that the same be adopted.

Mr. BEATTY. I move to strike that out as it is the same substantially as Section 2 in Article 7 (8).  
(Seconded).

Mr. AINSLIE. I don't see anything in Section 2 of Article 7 (8).

Mr. BEATTY. I suggest then the clerk read Section 2 of Article 7 (8).

SECRETARY reads.

Mr. MAYHEW. That is not the section—they are not the same.

Mr. BEATTY. Section 2 refers to the credit of the state being given or loaned to individuals or associations. That Section 5 (3) is pretty nearly the same thing.

Mr. MAYHEW. I think that certainly has a different legal aspect altogether from Section 2 in the

<sup>1</sup>—See p. 585.

former article. I understood Section 6 should be stricken out because it was enacted——

The CHAIR. The question is upon the motion to strike out Section 5 (3). (Vote). Motion lost.

The CHAIR. The question is now upon the adoption of Section 5 (3). (Carried).

SECTION 4.

SECRETARY reads Section 6 (4).

Mr. VINEYARD. I move to strike that section out. (Seconded).

Mr. MAYHEW. I would like that section read in article 7 (8) and see whether this agrees with it.

SECRETARY reads Section 5 (4), Article 7 (8).

Mr. CLAGGETT. It seems to me, Mr. Chairman, that section ought to be amended but ought not to be stricken out. Mr. Sweet has an amendment.

Mr. MAYHEW. I wanted to have it read for information, was all.

Mr. CLAGGETT. Mr. Chairman, the way that reads now, it would prohibit a certain class of transactions which ought clearly to be left within the power of municipal corporations for the purpose of supplying the inhabitants with water, for illuminating purposes and to establish sewerage systems. The great abuse which arises in these municipal corporations with regard to these three purposes, especially to the two first, allowing a city or town to furnish it with water, is this, that they will go on, provided some corporation will put in its appearance with a bid to illuminate the city or supply it with water, and the corporation will thereupon vote it a certain donation. That ought to be shut out unless it is covered by some amendment.

Mr. MAYHEW. I understood the gentleman wanted to amend.

Mr. CLAGGETT. I didn't know that the gentleman had his amendment ready.

Mr. SWEET. Well, I was studying even if I did amend Section 6 (4)—it might not belong to this section in Article 7 (8). However, I will send up this amendment to Section 6 (4).

SECRETARY reads amendment to Section 6 (4): *Provided*, That cities and towns may contract indebtedness for school, water, sanitary and illuminating purposes; *Provided*, That any city or town contracting such indebtedness shall own its just proportion of the property thus created, and receive from any income arising therefrom its proportion of the whole amount so invested.

Mr. SWEET. Mr. Chairman, I move that this amendment be adopted. (Seconded).

Mr. SWEET. I only desire to state, as it is brought in by the gentleman from Shoshone county, but I can illustrate it. It is supposed we may desire in our town to have water works—in fact, it is a necessity, and let us suppose it will cost \$50,000. If a capitalist comes in and says “I will put \$25,000 into the enterprise” and the people of our town will put \$25,000 into the enterprise, it seems to me practicable and desirable that the people should be permitted to make the investment of \$25,000 in that enterprise. On the other hand we do want to prohibit authority to vote \$25,000 to this capitalist and absolutely giving him the money. We want to invest \$25,000 in that enterprise and desire to have the income from it. If we furnish water to the town and furnish the money with which to supply the water, then let us have our proportion of the money that comes in. And the same rule applies to illuminating the town or anything of this character.

Mr. BEATTY. I would like the amendment read.

SECRETARY reads amendment.

“Question, question!”

The CHAIR. The first motion before the committee was the motion to strike out Section 6 (4) and this would be entitled to precedence, unless the gentleman withdraws it. The question is upon the motion to strike out Section 6 (4). (Vote). The motion is lost. The question now recurs upon the amendment offered by the gentleman from Latah, Mr. Sweet. Are you ready for the question? (Vote). The chair is in doubt. (Rising



vote, 37 in favor). A majority having voted in the affirmative, the amendment is adopted. That is the last of this article.

Mr. REID. I move the adoption of the section as amended. (Seconded).

Mr. MORGAN. Mr. Chairman, I glanced over this article very hastily indeed. I think we have adopted two or three provisions which we have already adopted. I want to call the attention of the committee to Section No. 2, which reads as follows: (Reads). Now the section in Article 3 which has been adopted (Sec. 19) is as follows: "The legislature shall not pass local or special laws in any of the following enumerated cases, that is to say: \* \* \* creating, increasing or decreasing fees, percentages or allowances, of public officers during the term for which said officers are elected or appointed." It is in the article on Legislative Department and seems to be the same thing. Unless there is some reason given for retaining it, I move to strike out this section of the article. No reason having been given, I move to strike out Section 2 of Article 8 (12) which has just been adopted.

The CHAIR. If there are no objections, the chair will hold it in order. It is moved and seconded that Section 2 of Article 8 (12) which we have just adopted be stricken out. (Vote). The chair is in doubt. (Rising vote, 24 in favor). The majority having voted in the affirmative, the section is stricken out.

#### SECTION 1.

Mr. MORGAN. We want to make this constitution harmonious without too many repetitions. I now call your attention to the first line in Section 1: "Cities and towns shall not be incorporated by special law." That is precisely the provision that has been adopted in the article on Legislative Department, and I therefore move to strike out all of the first line of Section 1 to and including the word "but," so it will commence, "The legislature shall provide by general law," etc. (Carried).

Mr. MORGAN. I now move the adoption of the article again.

The CHAIR. It was adopted.

Mr. MORGAN. Very well.

#### ARTICLE 12 ADOPTED.

Mr. MAYHEW. Well, I move that the article be adopted as amended by the committee. (Carried).

Mr. MAYHEW. Now I think it is necessary when we are through with an article and have acted upon it in the committee that the report would be proper, that when the committee rise it report the article back to the convention and recommend the convention adopt it as recommended by the committee, and I make that as a motion. (Seconded).

The CHAIR. It is moved and seconded that when the committee rise to report back to the convention that it recommend that this article be adopted as amended. (Seconded, vote and carried).

#### ARTICLE 9.—EDUCATION AND SCHOOL LANDS.

Mr. REID. I now move we proceed to the consideration of Report No. 9, of the committee on Education and School Lands.

Mr. MORGAN. I second the motion.

Mr. CLAGGETT. I would suggest that the chairman of the committee of the Whole is chairman of that committee.

Mr. REID. Yes—presiding in the chair.

Mr. PRESIDENT. Will the gentleman from Boise, Mr. Ainslie, take the chair?

Mr. AINSLIE in the Chair: The order of business, gentlemen, is Article No. 9, by the committee on Education and School Lands.

#### SECTION 1.

SECRETARY reads Section 1.

The CHAIR. It is moved and seconded that Section 1 of Article 9 be adopted.

Mr. PEFLEY. I move to strike out "legislative assembly" and insert "legislature." (Carried).

The CHAIR. It is moved and seconded that the section be adopted now as amended. (Vote and carried).

#### SECTION 2.

SECRETARY reads Section 2.

The CHAIR. It is moved and seconded that the same be adopted.

Mr. MORGAN. I would like to ask the chairman of the committee why this supervision of public schools of the state is taken out of the hands of the superintendent of public instruction. It seems to me he is the officer to attend to it and will only be hampered by associating with him the other two officers of the state. I ask for an explanation; I do not see the reason.

Mr. McCONNELL. The committee had this question under consideration, several days, and by the assistance of some members I prepared a draft of the article and submitted it to the other members of the board who were not present at our first meeting, and I believe they, in consultation with some of the regents of the university, concluded that they would draw another article which perhaps would meet the wants of the community better than the one which had been drawn formerly, and as the question had to come up for final discussion anyway in the committee of the Whole, I reported the draft which they made. And I presume this was taken from the constitution of some other territory—perhaps that of Montana or Colorado. Will the gentleman from Alturas, Mr. Pinkham, explain that provision?

Mr. PINKHAM. Mr. Chairman, I have no explanation to make in regard to that, except that it is in a great many constitutions of our western states. I will acknowledge the fact, I think I took it from the constitution of the state of Colorado.<sup>1</sup> I see no reason why the superintendent of public instruction should not

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<sup>1</sup>—Copied exactly from Sec. 7, Art. 9, Colo. Const. 1876.



have his advisors in an important matter of that kind—the advice and consent of the attorney general and the secretary of state. They may be brought in as counsellors in a matter of that kind and I see no objection to the provision as it now stands.

Mr. MORGAN. I should like time to prepare a substitute for that section. I think if we are going to have a superintendent of public schools, he should have control of this matter, and it will be seen by an examination of this section that he can do nothing with reference to schools, or practically nothing—without having a meeting and consulting the secretary of state and attorney general, whose time must be occupied by other duties of the state. I move to pass the section for a while until I can have time to prepare a proper substitute for the section. (Carried).

#### SECTION 3 STRICKEN OUT.

SECRETARY reads Section 3 (afterwards stricken out).

Mr. WILSON. I move the words “general assembly” be stricken out of that and all the following sections and the word “legislature” inserted in lieu thereof. (Carried).

Mr. HARRIS. I move that the section be amended by striking out the word “six” in line 3 and inserting “five.”

The CHAIR. I hear no second for it. What shall be done with the section?

Mr. CLAGGETT. I move to strike out all of the section after the word “year” in the last line, beginning with “any school district failing to have such school, etc., for that year.” Under the section as it now reads, one or more public schools shall be maintained in every school district three months in each year. And it then provides that if we find any district that shall not have any school, and yet command the district to have a school before they can get any portion of the fund.

The CHAIR. Will the gentleman put it in writing?

Mr. CLAGGETT. Yes, sir.

SECRETARY reads: Strike out all of Section 3 after the word "year" in the fifth line. (Seconded).

Mr. McCONNELL. I hope this motion will not prevail. This provision, which is a very usual one, if it prevails, will result in the opportunity that a district may have of not having any school for any one, two or three years and have their proportion of the school fund credited up to them so that they may get ready to use it when they please. The object is to compel each school district to make an effort to have school at least three months. If they do not have school three months, they are not entitled to their share of the public money for that year. With this amendment proposed, their share of public money will be held in the treasury until such time as they have schools. It is an inducement to urge them to have schools in each district.

Mr. CLAGGETT. I don't see how any such results as that follow—that the money will be held for the district when they have no school. It simply denies the right of any person to receive the money. That will all depend upon the legislature. The way we have it now, the objection I have to it is that we want to offer an inducement for these people to go ahead and use all the school money. The way it is now you can't have any school money at all until you have a school.

Mr. McCONNELL. You can't anyway.

Mr. CLAGGETT. It can't be appropriated. I don't know but perhaps I am muddled on it a little.

Mr. PRITCHARD. I think the gentleman is wrong in regard to that. These school moneys are all apportioned to the different districts the first of January—during the fore part of January—and the money apportioned to each district is credited up to that district then.

Mr. CLAGGETT. If that is the case, I will withdraw the amendment.

Mr. PRITCHARD. And if during the year they have their three months of school, they are entitled to their money, and if they don't have the school, they are not entitled to their money.

Mr. CLAGGETT. With the consent of my second I will withdraw my motion.

Mr. POE. I would suggest here that under the provisions of that section as it now reads, there is a penalty attached to any district which does not hold or maintain a school during the year. That penalty is the forfeiture of the amount of money that would otherwise go to it in case it held school. Now you take the amendment you propose and adopt that, and then the law makes it absolutely necessary and imperative upon them to absolutely maintain at all hazards school at least three months.

The CHAIR. I would say to the gentleman from Nez Perce, the gentleman from Shoshone has withdrawn his amendment.

Mr. POE. I understand that, but suggest now that it is proper to renew it, for the reason I do not think it is policy to leave it optional whether they shall hold school or not and say if you don't do it you shall not get any money, but my idea is to pass a law to compel every district in the state to hold at least one term of school within that district during the year, and if the amendment proposed by the gentleman is adopted, then that is the effect of this article, and therefore I will renew the amendment in order that we may have the sense of the convention upon the proposition.

Mr. CLAGGETT. I will second your amendment and go back to my original proposition.

Mr. PRITCHARD. Mr. Chairman, I think they are wrong in regard to that. In any district, if there are enough children so that it pays them to have a school, or any children at all, so far as that is concerned, they are certain to have a school—they do not need to be compelled to have it. On the other hand, suppose you have a school district, as is sometimes the case, and suppose there are no children in that district during the year to attend school. Now what is the use of compelling them to have school? This will serve that purpose if there are no children. If they do not need it,



they do not need to have school, but that money is not tied up in the treasury, it goes back in the general fund and is apportioned at the beginning of the next year to the whole county again.

Mr. GRAY. I would ask the gentleman, will it be regular? What do they do, suppose you don't have any?

Mr. POE. I will answer that question. If there should by chance be a district established which was afterwards depopulated, then I would say it is the duty of the board of county commissioners or superintendent of public schools to abandon and abrogate that district to strike out all expense. That is the answer to that question, most assuredly.

Mr. GRAY. Then I will say this: I am inclined to the amendment, but not for the reason stated, but I do believe in leaving the control of those matters to the legislature, and as to what the penalty would be, amend the law—amend the general school law which ought to cover all this—excepting I am willing that it should be in there that they shall have school at least three months; but suppose they don't do it, I don't know what they would do without they should attach some penalty to it. But I think the legislature could by general enactment arrange all this matter perhaps better than we are doing it by fixing this penalty here.

Mr. McCONNELL. That is a provision of law found in either the constitutions or the statutes of every state, I think, in the Union and almost in those same words, and I can't see where it is going to be any particular advantage to strike it out. I can clearly see where it might be disadvantageous where money might be locked up that should be distributed over the county for the benefit of children throughout the county.

Mr. GRAY. I would ask the gentleman from Latah, could not the legislature fix that?

Mr. McCONNELL. I am sure they could—they do it in many states; while in some states they fix it in the constitution. This matter of how far we shall legislate

here—it seems to be the opinion of many men we should go to the verge of legislation in many things, and I suppose this is one of the places.

Mr. GRAY. I notice that. (Laughter).

Mr. HAMPTON. I am in favor of the amendment for this reason. I understand there is a law of that kind on our statute books today, and I understand the reason for it is to require districts to have at least three months of school in the year. And if we want to enforce this, we can enforce it or it should be enforced by legislation. But the object of the portion asked to be stricken out I understand to be to withdraw the money if they don't use it to operate as an inducement for each district to have the school as required by law. The effect is that it operates against what we want to enforce—three months school. There is another thing in this—it has been the practice in all schools—that teachers where they have started to teach can't draw their money until after they have had three months' school, and it operates to great disadvantage of the teachers sometimes, because teachers, like all other men, want their wages, and I can't see that it does any good in the least—in fact, the practice has been that it has done harm in this respect and for the reason stated by the gentleman from Ada, I think it ought to be left to the legislature, and by legislation we can enforce all these provisions in the constitution.

Mr. HASBROUCK. I agree with the gentlemen who have spoken last. I therefore move to strike out all the section after the word "state" in the third line and leave it all to the legislature.

Mr. PRITCHARD. I second that motion.

Mr. GRAY. I would ask the gentleman why wouldn't it be well to let it run to "gratuitous."

Mr. HASBROUCK. I prefer to leave that matter to the legislature, as well as anything else.

Mr. GRAY. We want to show, of course, we are going to have free schools.

Mr. HASBROUCK. Well, I think that is included in "free schools." They are synonymous terms.

Mr. SHOUP. Mr. Chairman, I have an amendment to this section. I move to strike out in the first line the words "General assembly" and insert——

Mr. AINSLIE. That has been done.

SECRETARY reads: Strike out all of the section after the word "state" where it first occurs in the third line.

The CHAIR. That is the amendment to the amendment offered by the gentleman from Nez Perce, I understand.

Mr. POE. By leave of my second, I will withdraw the amendment I made and indorse the one that has just been made.

The CHAIR. You have heard the motion, gentlemen—where it first appears in line 3. (Vote). The chair is unable to decide. (Rising vote shows 29 in favor). The motion prevails.

Mr. MAYHEW. I move the adoption of the section as amended. (Seconded and carried).

Mr. MORGAN. I have a substitute for Section 2 now.

## SECTION 2.

SECRETARY reads: I move as a substitute for Section 2, the following: "Section 2. The general supervision of the public schools of the state shall be vested in a superintendent of public instruction, whose duties shall be prescribed by law."

Mr. MORGAN. I move the adoption of the substitute. (Seconded).

The CHAIR. Are you ready for the question?

Mr. HASBROUCK. I hope that motion will not prevail. I think there should be a board of education—that it should be an advisory board. I think it is placing too much responsibility and even too much power in a matter that is of such importance as this is, in one man, and I think he needs this advisory board. And I am so informed by people who have had this matter under consideration and by people perhaps bet-



ter capable of judging of this matter than any member on this floor. Therefore I shall oppose the amendment.

Mr. MORGAN. Mr. Chairman, I don't see any reason why a superintendent of public instruction cannot control and direct all the schools of the state, and in order that that direction should be intelligently done, I think it is the duty of the people to elect a good man as superintendent of public instruction. And as I said before, I can't see why the secretary of state should be called upon, and the attorney general, to assist in the direction of these schools. They have their respective duties and certainly cannot spend much time with the superintendent of public instruction. I am in favor of giving that to one officer, if you want such an officer at all. You may as well say that the governor shall be assisted in his duties by the secretary of state or attorney general, as to say that the superintendent of public instruction should be. ("Question, question!")

Mr. McCONNELL. I hope this amendment will not be adopted, Mr. Chairman. I think it is quite a different thing—the governor and superintendent of public instruction. When we meet in political convention, if we are admitted as a state, the governor will be one of the first officers nominated; then the secretary of state, then the state treasurer and then there must be a platform or badge of authority of some kind or other; perhaps the gentleman from Bingham may be nominated for superintendent—or some other man. I think there would be no harm in his having some advisors—I can't see any harm in it. (Laughter). It is a common custom to have a state board of education in some states. But I don't believe in leaving it to one man—the entire management and control of schools, any more than I would the management of a university entirely in the hands of one man. Why should not you say that the president of a university should have entire control of the university? When there is a question comes up for consideration the faculty is called together and they advise upon it, and when there is a question of import-

ance brought before the state board of education, they can be called together to pass upon it, I think, more intelligently than one man.

Mr. REID. Will the gentleman yield for a question? I favor his proposition but I want to ask the chairman, does this state board have control over public school lands?

Mr. McCONNELL. No, sir; in a subordinate section there will be——

Mr. REID. But I mean in their duties.

Mr. McCONNELL. No, not as a board.

Mr. REID. Who will?

Mr. McCONNELL. The board of school land commissioners.

Mr. MAYHEW. I do not care about entering into any discussion of this question, but I have observed this, so far as the discussion has gone, that there is but one question in it at all—in every argument advanced by the gentlemen, and that is this: Are three heads better than one, or three heads better than two? I think they are and therefore should be accepted.

Mr. HARRIS. Let me call the attention of the convention to another matter, that the committee on Salaries has fixed the salary of the superintendent at \$1,500 a year. Now we can judge as to what sort of a man you are going to get for that sum of money.

Mr. MAYHEW. According to the views of some members of this convention, you can get a good superintendent for a song. (Laughter. "Question, question").

The CHAIR. Gentlemen, you have heard the motion to adopt the substitute offered by the gentleman from Bingham in lieu of Section 2. (Vote). The ayes appear to have it. (Division called for; rising vote shows ayes 14, noes 28). The motion is lost.

Mr. MAYHEW. I now move the adoption of Section 2 as read.

Mr. MORGAN. I second the motion. (Carried).

Mr. HAMPTON. Mr. Chairman, it seems to me that we are rushing through and mutilating one of the most

important subjects we have. I wish to call the attention of the convention to what we did in regard to Section 3.<sup>1</sup> I do not believe that the convention understood their vote against compulsory education entirely, but that is the effect of what we have done.

The CHAIR. Does the gentleman move to reconsider the vote?

Mr. HAMPTON. I have not; I suggest the matter to some gentlemen who voted on the other side.

The CHAIR. It must be moved to be reconsidered then. The secretary will read the next section.

### SECTION 3.

SECRETARY reads Section 4 (3), and it is moved and seconded that the same be adopted.

Mr. HEYBURN. I have an amendment.

SECRETARY reads: Amend Section 4 (3) by striking out all after the word "directed" in the seventh line. (Seconded).

Mr. HEYBURN. In that amendment I call the attention of the members of the convention to the fact that it provides without any exception, that it does not matter under what circumstances the school fund may be lost in money, whether by bad investments or otherwise, that the state shall supply it, when there is no provision for the fund from which the state shall supply it. It does not provide how it shall supply it. It is rather a reckless provision, it seems to me.

Mr. McCONNELL. Mr. Chairman, I think no fund is more sacred than the school fund, and perhaps there is no other fund so sacred; it should be guarded in every manner possible, and by having this provision in here, the children will always be made sure there will be that much money to their credit, and we will have that much at stake in our schools. But if there is no provision for making this fund good in every way, it may be squandered, and the first thing we know our school fund will be so small that we can only maintain

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<sup>1</sup>—Stricken out.



the schools by local taxation. I think the legislature can provide for making good any losses which may occur. They will probably be more careful in making investments if it is known that the state has to make it good.

Mr. HARRIS. I shall oppose the amendment, because I think that it should remain inviolate, as the section contemplates from the beginning, and intact. I see they have provided it shall be made up in case of loss, and no matter how these losses occur, even if the money is stolen, it shall be made up and that fund always kept good, for there is no purpose for which we can better spend money than for the education of youth, for there are many who have to suffer in making up losses from the fund.

Mr. HEYBURN. I would not have proposed the amendment if there had been any provision made as to how it shall be made up, but there is none.

Mr. PINKHAM. In formulating this section of the educational article, I examined very fully into the matter, and for that purpose, and for that purpose only, was the school fund placed in the hands of the state treasurer, so that we would have some protection, some guarantee, that it would always be saved for the young and rising generation of the state of Idaho. The state in this constitution will provide in what manner he shall qualify as treasurer of the state, and the law may compel him to give sufficient security for the custody—the safe custody, of every cent of money that comes into the state treasury; and I want to inform the gentleman from Shoshone that I could not find a constitution in the United States where they have provided for their public schools but what the same provision in the same language is used in their constitution as is used in this.

(Cries of “Question.”).

The CHAIR. The question is upon the motion of the gentleman from Shoshone to strike out the last portion of Section 4, after the word “directed.” (Vote). The noes appear to have it. The motion is lost. The

question is now upon the adoption of the section as read, and it is moved and seconded that the same be adopted. (Carried).

#### SECTION 4.

SECRETARY reads Section 5 (4), and it is moved and seconded that the same be adopted.

Mr. HEYBURN. I have an amendment.

SECRETARY reads: To amend Section 5 (4) by striking out after the word "State" in the eighth line, "all unclaimed shares and dividends of any corporation incorporated under the laws of the State," and insert after the last word in said section, "all fines imposed by the legislature or supreme court of the state."

Mr. PARKER. I desire to offer an amendment.

SECRETARY reads: To amend Section 5 (4), in place of the word "proceeds" in line 1, insert "revenues derived from the lease or rental." After the words "general educational purposes" in line 10, add "the title to all school lands shall remain forever vested in the state, and said lands shall never be encumbered by lien or mortgage for any purpose whatsoever."

Mr. PARKER. A stable republican form of government depends upon our educational interests. We recognize it here by incorporating that in our Section 1 of this article. Congress has recognized it by making this grant of land embracing two sections in every township and additional grants for university purposes. Now I hold that congress gave us these lands not for ourselves, but for our children and our children's children and for generations of posterity yet unborn. But by the report of this committee, as it is printed here, we find that the school authorities have authority to sell these lands. Now up in the northern counties of Nez Perce, Latah and my own county of Idaho we have a good deal of agricultural land, but Mr. President, there are in several states today speculators who have their eyes on these lands and are able to buy these lands. Mr. President, I ask the convention to consider my amendment, and

put all these lands beyond the possibility of speculation. Let us hold on to them, let us freeze to them, to every acre of it, and not sell them now at a minimum price to land grabbers and speculators, and deprive our children of their common heritage. Let us hold on to them, and as our territory develops these lands will increase in value and we shall be able to get money for school purposes without calling upon the people for direct taxation for money for educational purposes, as they have to do in our neighboring commonwealth of Oregon today. Mr. President, I have lived in Oregon, and I have seen the state school lands of that commonwealth sold and frittered away for a dollar and a quarter an acre to speculators, and the state of Oregon has no school fund today to amount to anything in the treasury; but our school system is a foremost necessity in this whole undeveloped territory of Idaho.

Mr. GRAY. I wish to ask the committee if it has included escheated estates; under our present law that goes to the school fund. It does not seem to be named here. Perhaps further on in the article it may be.

Mr. MAYHEW. It is there.

Mr. GRAY. Yes, I see it.

Mr. MAYHEW. I move the adoption of the section as it is read.

The CHAIR. Is there any second to the motion of the gentleman from Idaho to amend?

Mr. CLAGGETT. I will second that motion.

A MEMBER. What is the amendment?

SECRETARY reads Mr. Parker's amendment.

Mr. McCONNELL. I hope this amendment will not be adopted. I am entirely familiar with the school lands in northern Idaho, in the three counties referred to, and I am also familiar too with the history of the school fund of the state of Oregon, and I can tell the gentleman that it was not because the school lands were sold at a dollar and a quarter an acre that Oregon today has a small school fund, but it was because there was a democratic governor who had aspirations for the



United States senate, and he got there. (Laughter). That was what depleted the school fund of the state of Oregon.

Mr. MAYHEW. I would like to ask the gentleman if he has any authority for that assertion.

Mr. McCONNELL. History, history, sir, which is unquestioned in the state of Oregon. (Laughter). I have made that assertion, and I used to reside myself in the state, but not to condemn the gentleman who dared to get up and refer to it, because it is to the disgrace of the state that such is the fact. We have, as is said, certain sections in the counties in the north of good agricultural lands, and there may be men, speculators, who are there today, ready to buy those lands. But this bill provides further on how these lands will be sold, and I think you will see that it is carefully guarded by the work of this convention and this committee. The public school lands of this territory, situated in the counties of Latah, Nez Perce and Idaho, will bring more money now than the agricultural lands of the eastern states, and it is a question whether it is policy to hold those lands as speculators ourselves. It is a fact well known to every gentleman who has been engaged in agriculture, that it is with very few exceptions that farm lands pay interest on the money, and it is also a well known fact that farm lands under this method of culture deteriorate in value by becoming foul, after having been cultivated a number of years, and by their culture with these methods the parties who had entered upon the lands in the north took away their fences generally, because it had become plain that they were ruining or deteriorating the value of these lands, consequently I do not think there is a school section in the north today that is under fence and well cultivated. Anyway, in the state of Washington, by means of their law, the commissioners have leased these lands for a nominal rental, and the result is that the lands are not nearly so valuable as they were before they were occupied. I hope this amendment will not prevail.

Mr. VINEYARD. I am heartily in accord with my friend from Idaho. There is not today in the United States per capita above 15 acres of land, good, bad and indifferent; that is, according to population. Land is going to be land in this territory in the course of fifteen years. If we adopt now a system that will provide for the frittering away of these school lands to Tom, Dick and Harry, to syndicates and corporations, simply going for the pittance of a dollar and a quarter an acre, in twenty years there will be no school lands in this state. The school fund of Oregon deteriorated, when it was provided in the constitution of that state that it should be perpetuated in every shape, and at the same time, under the management of their school fund in that state, with all the safeguards conceivable thrown around it for its preservation, still it has melted away, and there is scarcely anything left. Now it occurs, how did this happen? It happened by bad management. It happened by the bad management of the board of school land commissioners in that state, in marketing those lands, a great many of them, for a small sum; they went to work and marketed these lands away until that fund really amounted to nothing—it didn't amount to anything. And that was where the superintendents of the various counties had authority to sell those lands for a dollar and a quarter an acre. The charge that the mismanagement of those school lands is chargeable to a democratic administration in that state—I am not inclined to hold with my friend McConnell on that subject. I don't think it was because the governor was a candidate for the United States senate that the school lands of Oregon melted away and the money was frittered away. It was long before L. F. Grover<sup>1</sup> was governor of the state. In some way it afterward melted away under the management of Sam May<sup>2</sup> and his coad-

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<sup>1</sup>—Governor of Oregon from 1870 to 1876. U. S. Senator from 1877.

<sup>2</sup>—Samuel E. May, secretary of state of Oregon prior to 1870 and charged with the embezzlement of school funds.

utors. That is all there is about that—bad management of both parties of frittering away the entire school lands of that state. I am in favor of leasing these lands. I am in favor of leasing them in bodies not to exceed 640 acres, or a section, to any one individual, for a term of years, and then the state would gain the benefit of the enhancement of the value of these lands. If we go on in this way of selling them, we will soon have no school lands, in my opinion—if we let the bars down so that everybody can come in generally and gobble them up.

Mr. ALLEN. Mr. Chairman, I desire to offer an amendment. Before doing so I wish to state one reason. I believe there should be some safeguard provided for the school lands of the state; I believe the people expect that, and they have a right to expect that, taking the history of other states into consideration. I move to amend, so as to bring this matter more fully before the convention, that the word “all” be stricken out, and “one-half” inserted, so as to read that one-half the school lands be held in perpetuity. That is an amendment to the amendment offered by Mr. Parker.

Mr. PINKHAM. I think all these amendments on this subject are entirely out of place as they are made here. If the gentlemen wish to put in any proviso regulating the terms of sale of land grants, it should go in under Section 10, which is devoted exclusively to that one subject. For that reason I do not think they belong to the section under consideration.

Mr. PARKER. This bill does not prohibit our board of education from leasing these lands every 99 years, or every 999 years, if necessary. All I want is that the title shall be forever vested in the state, and I think Mr. Allen’s amendment recognizes that to the extent that he wishes one-half of these lands to be reserved, for which I thank him. Now if it is good doctrine to reserve one-half, why not reserve the whole? I maintain, sir, that these lands were not given to us to dispose of, that congress gave them to us to keep as



an estate for future generations, and, as I said, they can be leased for one month or one crop, or for 30 or 60 or 99 or 999 years, but the title shall always remain in the state, and so long as the state has that title we shall always have good collateral to raise money for school purposes, but once sold, they are gone—gone forever, and we will have to be subject to direct taxation to raise money for school purposes, as we are today.

Mr. CLAGGETT. Mr. Chairman, I certainly do hope the amendment which is offered by the gentleman from Idaho will pass, but whether it will leave the section in a smooth condition or not I can't say. But the idea embraced in that motion is certainly a sound one. Allow me to ask any member of this convention, assuming these school lands or any portion of them are sold, then what is going to be done with the money? In order to secure the fund from future loss, you will necessarily have to invest it in some form of security which is regarded as perfectly safe, and any form of security which is regarded as perfectly safe, sound security, necessarily bears a low rate of interest. Now let me ask a question right here, and that is, whether any of these lands can be sold at any price within the next ten or twenty years which will bring as large a rental, or rather as large an interest upon a perfectly secure investment, as you can get from these same lands by renting them out from year to year, and then have your whole principal intact at the end. Not one single, solitary foot of school land, or the donations of the government, should ever be permitted to pass out of the hands of the state, and I stand broadly and squarely in support of the proposition made by my friend from Idaho.

Mr. HEYBURN. I just simply want to say to the gentlemen of the convention, that during the time I was away from here since this convention has been in session, I have had occasion to see something of a system of leasing school lands. I was trying a case in Spokane Falls, and had occasion to ask a gentleman

who claimed to be authority and had leased from the county commissioners a quarter section of school land in Spokane county, how much rent he paid for it, and he replied under oath that he paid \$10 a year rent to those commissioners for that quarter section of land, which was considered to be a very valuable quarter section. So that if our board of land commissioners are going to rent our school lands at any price they may see fit, we had better guard the matter in such a way that they will not rent for \$10 a year a whole quarter section. I am in favor of selling the lands and investing the money in some way for another reason. If you lease the lands here and there all over the country, you find that in many portions of the country men will not stay on them who lease them, and they will be blots upon the surface of an otherwise prosperous looking country, and the men who lease them will lease them for the simple purpose of cropping them and wearing out the soil, and when the whole country is settled up around them, there will be these whole subdivisions of land unfenced here and there, without trees or any fences upon them.

Mr. PEFLEY. I was heartily in favor of selling the lands when I heard the explanation of the chairman of the committee that the money was stolen to send a man to the United States senate, but if we have such offenses in prospect now, and a good many politicians in the country, I think we had better keep the lands and not sell them, for fear they will be used for the same purpose.

Mr. McCONNELL. I would say to the gentleman that the candidates for the United States senate are now all on the republican side.

Mr. MAYHEW. I was rather inclined to vote against the amendment of Mr. Parker at first, but as soon as I heard that *ad hominem* speech of my friend from Latah county, I think it is necessary now to adopt the amendment. (Laughter). Now if there are going to be any politicians, let them be republicans or democrats,

that are going to steal this money, let us put this property in these lands in a condition that neither democrat nor republican can take it. It is no argument to me that because a democrat has done that once that there are not a great many republicans that will do it in the future if they have an opportunity—I think that is no argument at all; but the question before the convention is how and in what manner we are going to best perpetuate the funds of the schools of this territory. Now I say that if it is the best policy to lease these lands out and keep them for a great many years in a condition by which the schools can be benefited by the leasing of these lands, let us do so. I am told by one of my own friends, a republican, too, that he wants to buy some of these lands, and I suppose he wants to buy it as cheap as he can. Now I am opposed to selling these lands at once, so that at one sweep the entire school fund might be destroyed for the future, though I might be willing that these school lands should be sold from time to time as may be desirable, but after hearing the argument on that point, I am like my friend from Shoshone, Mr. Claggett—I plant myself squarely as in favor of the amendment offered by the gentleman from Idaho, Mr. Parker.

Mr. POE. Mr. Chairman, no doubt it was the intention of these gentlemen to preserve the land, or the proceeds of it, for the benefit of the rising generation. It is all very fine in theory, this matter of preserving this land intact for future generations—for the benefit of future generations. But while we are considering the benefit of future generations we should for a moment consider that there is a present generation that requires aid from this school land, that is, the men who have come into this country and reclaimed it from the wilderness, that are living here, as it were, in poverty, on account of having left their homes in the east and come here for the purpose of building up a new country. They have had to strive, as it were, in poverty—in almost abject poverty, in order to bring us to the position



we are at present in, to-wit, the position where we can demand admission into the Union. Up to this time, however, they are in poverty, and of these lands, not one quarter of a dollar, either from the sale of them or from the rent of them, can be used for the education of their children. They had to pay the taxes out of their hard-earned money, which absolutely almost took the bread from their mouths, to educate their children and provide for the public schools while we were in a territorial state. There are plenty that are coming now into this country, and that are now in this country, who are unable to educate their children without some assistance. Now the question comes, how should we adjust the matter to reap the benefit to be derived from this school land? Shall we keep it intact for future generations and deprive ourselves, our own generation from the benefit of it? The gentleman answers us by this proposition, that you sell not an acre of that land, but that you keep it intact, and you reap your benefit from the leasing of that land. As was said by Mr. Heyburn, what have the lands in Washington territory been leasing for? And where is the agricultural man—where is the man that knows anything about agriculture, about farming, tilling the land, but what knows that whenever you lease that land to an irresponsible person, a person who cares for naught so far as the preservation of that land is concerned, only that he may for the time being reap the greatest profit out of the use of it, he will care not what the condition may be that he leaves it in. What is the history of the agricultural land of this country and of every other country that is not properly cared for? It will grow up in wild oats and other obnoxious substances which ultimately destroys it, from a condition which will make it profitable for agricultural purposes. Then I say if you forever put a prohibition in this constitution prohibiting the selling of this land, within ten years from today, I will say, that on every acre of it to be taken up and cultivated from the time that we pass the law—that within ten years from that

time it would become so foul that you will not realize a quarter of a dollar an acre out of it for rent. Then where will be your fund to educate the children of the present age? Now I say, gentlemen, there should be an inhibition placed by this constitution upon those who have the charge of that land, that they should be directed as to the sum for which they should sell this land and that this sum should not be less than ten dollars per acre. Then every section of this land will have an inhabitant upon it, a man who will become a citizen in the country, who will help to develop the country, and we will be placing the fund within the hands of some party who I hope will not be like the senator from Oregon, whether he be democrat or republican, that would steal the whole matter. I do not think this a proper time to make any reflections upon one man or another. I know that there are incidents in the history of this country in which it has been clearly proved that certain republican officials have been false to their duty. I admit that such things may have occurred under a democratic administration, but what has that to do with the question before this house at this time? The proposition is now that this land be sold, that it be placed in the custody of the treasurer of the territory and then placed at interest, and that the interest arising from the fund shall be appropriated to the payment of the current expenses of the public schools. Now then, it is further provided in this report that that fund itself, that the principal shall be held intact. Now it is a well known fact here that if that principal is held intact forever, the future is provided for. But while we are providing for the future, we are providing at the same time for the poorer present. And I say, gentlemen, that I am satisfied that the best interests of this country will be served in more than one respect if we sell this land and put a fixed valuation upon it, so that the parties who have the power to sell this land cannot sell it at a less valuation; then we know just what we are going to realize; we know we have a large school fund, the principal of which will not only

educate the present generation, but as it goes on it will educate those who come after us. And then there is another consideration, gentlemen, and that is this. The people of the territory of Idaho that now seeks to be a state are comparatively poor. How poor they may be is evinced by the amount of taxable property that is now within the state. Then I say that we should not do anything that would deprive the present generation of the benefit of this school land, and if we absolutely prohibit and deny the right of the sale of any of this land, it will not be ten years until there will not be an acre of it bringing a quarter of a dollar revenue into the school fund, and our present generation will be deprived, as well as future generations, of any benefit from this fund.

Mr. CHANEY. Mr. Chairman, I do not wish to occupy any considerable time of this convention, but I wish to make a statement of some facts which may enable the members to act upon this question intelligently. Having been a rancher myself in northern Idaho for several years, I think I should at least be taken as some authority as to the rental and leasing of lands. Good farmers in our portion of the country have quit renting or leasing their lands entirely. They prefer to let them lie idle, by reason of the fact that if they rent them or lease them, in three or four years they become so foul with wild oats or cockle seed that they are no account any more, and it will need a little explanation to enlighten members who are not acquainted with the peculiarities of our country, to say that if the land once becomes seeded in wild oats or cockle it will volunteer from year to year and gets entirely valueless for farm purposes. We have many instances of that sort up there. You may plow them under, those that volunteer, and put it in timothy, and in cases of that kind, where a field thoroughly seeded in wild oats has been plowed under and seeded in timothy, I know one instance where the timothy was left for four years—good timothy crops for four years—then the timothy sod had been plowed under, and those wild oats had laid there all those four



years, and grew up thick after laying four years. Now that is a fact. If you want to entirely destroy the value of these school lands, either for renting purposes or for selling, lease them, and you will find they will be valueless, either to rent or to sell. That is my honest opinion.

Mr. McCONNELL. An enabling act was passed by the last congress, for the admission of Montana, Dakota and Washington, and it limited the price at which the land might be sold to ten dollars an acre,<sup>1</sup> and I think congress will doubtless limit us in regard to the price our school lands will be sold at, if it sees fit to admit us.

Mr. SWEET. The enabling act for Idaho territory last winter did limit the price at which we could sell school lands to eight dollars an acre.<sup>2</sup>

Mr. McCONNELL. Well, this is not a question of sentiment; it is a question of public business, and living in that country where most of our school lands are that are valuable—we have not very many, and except university lands we have hardly any to sell at present—living where these lands are and knowing what price can be obtained for them now, as a matter of business I think it is a good time to sell them, because there are many of those lands that will bring \$20, \$25, and even as high as \$30 an acre under the hammer. As provided further on in this article, we provide that these lands should be sold only at auction, for the aid of the institutions to be benefited. We have provided that this money shall be loaned only on good farm property. It has been stated that you could only do it at a low rate of interest. I will guarantee that at the present time every dollar of the proceeds from sales of these school lands, if it were in the treasury today, could be loaned on farm loans in this territory at ten per cent. I call that pretty good interest.

Mr. MAYHEW. You say that you provide further on in this article that these lands shall be sold; do you fix the price they shall be sold at?

<sup>1</sup>—Sec. 11, Act of Feb. 22, 1889. 25 Stat. at L. 679.

<sup>2</sup>—Sec. 22 of Mitchell Bill. See Appendix.

Mr. McCONNELL. The enabling act passed last winter fixes the price, that it shall not be less than eight dollars, but our act provides they shall be sold at public auction.

Mr. MAYHEW. Well, it would not be less than a certain sum.

Mr. McCONNELL. Well, certainly, we provide for that. But as a business proposition I think it would be poor policy to hold these lands and attempt to lease them; so I hope the amendment will not prevail.

Mr. ALLEN. I would like to bring out one other fact in connection with the character of these school lands, and that was the object of my amendment. A portion of the school lands of Idaho territory are timber lands; a portion of them in northern Idaho, as has been said by a gentleman familiar with their character, are very much different from those in southern Idaho. The character of our lands is that they are sagebrush lands, and when once cultivated they are very much more valuable from year to year by that fact of cultivation. A portion of the lands are timber lands, and the reason of my amendment was, having these facts in view and applying them, as has been stated by the same gentleman, that the present school children of this territory or state should have some fund provided for their education, and I believe that is too important a question to pass over lightly without further consideration.

Mr. HARKNESS. Mr. President, it occurs to me very forcibly that the school lands in this part of the territory should be sold at present. Who is going on there to clear the sagebrush and get water rights on that land and fence it, and lease it and pay anything for the lease? The fact is it is worth more now than it will be ten years from now, when all the surrounding water rights are taken.

Mr. MAXEY. Mr. Chairman, this is a peculiar country and a peculiar soil, and the soil particularly is not adapted to leasing or renting. You will find in renting or leasing land in this country that it will not

take long to carry the land down stream, and unless the man owns the land or has an interest in it, I do not think it would be prudent to lease it or rent it. My observation in Illinois was that the school lands there could be noticed over the country by the log cabins and blackberry briars in the fence corners, and all such trash as that. You could pick out the school lands for miles all over the country. It simply amounts to this: The man that is tilling the land is not interested in the land, and it runs down. It is not worth half as much as the neighbor's land adjoining that particular farm. I don't think the proposition of leasing school lands in this territory practicable.

Mr. CLAGGETT. Mr. Chairman, I have listened to all these various remarks, and I am not only unconvinced as to the unsoundness of the position of the gentleman from Idaho county, but I am convinced more fully than ever of its complete and absolute soundness. This whole discussion has proceeded upon the theory that if we leave the title to these lands in the state, to be under the control and regulation of the state, that it is going to be just according to the way lands have been cropped or rented by private proprietors in northern or southern Idaho, or whatever it may be. This spring I was down in eastern Washington. I found that nearly half the land that was settled upon there was settled upon by renters, and I found that the customary trade made there—by inquiry among the farmers, was that they gave half the gross crop, they gave that as an annual rental to the proprietor. Now we are proposing to sell these lands here for five, ten and fifteen dollars an acre, when we can, by reserving it to the state by such rules and regulations protect these lands against very nearly all the evils the gentlemen have pointed out, and still have a double security for the school fund, which I referred to before, namely, the proceeds from the rent of the land, and in case for any reason then that fund should be lost by misappropriation, as was said by my friend from Oregon, or embezzled, we would still



have the principal to fall back upon, and our school fund is protected. I do not suppose anybody would suggest for a moment that the legislature would rent any portion of these lands for a short period of time—five, ten or fifteen years, but would only rent the land upon strict conditions of compliance with regard to keeping it up, so far as the application of manures and so on, and fertilizers, and good care being taken of it, and make the time twenty or thirty years, and put in a provision at the end, if you want to, that if during the period of lease the terms and conditions of the lease had been fully complied with, by keeping down your cockle burrs, Mr. Chaney, and your wild oats—making that a condition with regard to the lease, then the party should have the preference right of the renewal of that lease for ten or twenty years more. I don't see a bit of difficulty in the matter whatever. If you reserve the title and keep it in the state, the whole matter passes over to the domain of the legislature. They can experiment session after session, if they see fit; they can provide for leases for certain classes of land, as to their conditions, and I do not see why we should go ahead and part with this patrimony of the schools.

There is some force in the argument made by the gentleman from Oneida, and that is, so far as the desert lands are concerned, that the supply of water may be taken up, and the lack of water may leave the lands less valuable, or some portion of them, than they are now. But we have provided in two different articles, one in the Declaration of Rights, and another one in the report of the committee on Irrigation, for the construction of large canals. I think I may safely assume that all the small streams in this section of the country have already been taken up. You must utilize the large streams from this time on.

Mr. SHOUP. I would like to say a word or two on this question. The committee took all these matters into consideration before it made this report, and as my colleague on the committee, Mr. Harkness, has well

said, who is going to reclaim all these lands? I suppose that nine-tenths of the school land of this territory will now be arid land, land that cannot be cultivated without irrigation, and a great deal of it lies long distances from these large canals the gentleman from Shoshone speaks about, if they are ever built at all. And as regards the price of sale of this land, congress will no doubt provide that none of the school land shall be sold for less than eight or ten dollars an acre, no matter how sold, whether by auction or in any other way, there will be a limit in that respect. And as regards this question of saving this school land for future generations, that is all nonsense. We now propose to sell these lands right now, or as soon as we can, at the most convenient time. But there is no question but what this land is more valuable now than it will be hereafter after it has been cultivated and completely worn out by renters. We will then reserve for the future and for the people that live after us the cash this land brings, and give that to them as a perpetual fund which they shall keep forever, instead of giving them a lot of worthless and wornout land that is of no value to anyone, and in a part of the territory where irrigation is necessary and all the water rights taken up and owned by some one else.

Now Judge Claggett speaks about renters in a certain part of the territory coming with half their crops every year.

Mr. CLAGGETT. In Washington territory.

Mr. SHOUP. Well, in my part of the country a rancher is not able to make a living when he gets it all.

Mr. CLAGGETT. Well, we are, up there, where we make a living on half.

Mr. BATTEN. What I had intended to say has been very well said by the gentleman from Ada, Mr. Maxey, and the gentleman from Bingham, Mr. Harkness, and the gentleman from Custer, Mr. Shoup. It seems to me in dealing with this matter we have to deal with it in the light of the peculiar conditions in which we live

and the character of the soil. Water is as much a consideration in the tillage of the soil as the soil is itself, so that we have got to discuss it, and I take it, to handle it, in the southern part of the territory. It is a little different—understand, in the northern part of the territory; it is not necessary for them to irrigate there, so they can probably discuss this question as it is discussed in Dakota. Now the discussion has taken this turn, and we must adopt one or the other of two courses; either preserve our lands intact for all time, and so that we may derive a never-failing source of revenue from them, keep them as old landed estates are preserved in England, or sell them at once or very soon, to realize some immediate revenue. Now it strikes me there is a middle ground between these two courses, that we can test the merits of both by some provision similar to that which they have adopted in Dakota. And the only obstacle to adopting the Dakota provision is that which I have mentioned, that we are not similarly situated as they are in Dakota. There they trust to nature to irrigate their ground. We have to trust to nature, it is true, to a certain extent——

Mr. SHOUP. I suggest to the gentleman that——

Mr. BATTEN. Now in Dakota Section 4<sup>1</sup> provides that “the lands granted to the state by the United States for the use of public schools may be sold upon the following conditions, and no other: Not more than one-third of all such lands shall be sold within the first five years, and no more than two-thirds within the first fifteen years after the title thereto is vested in the state, and the legislature shall, subject to the provisions of this article, provide for the sale of the same.” Now I throw out the mere suggestion here, might we not adopt something similar to that; that for the first five years none of the lands shall be sold, after our admission into the Union; that pending that time the lands be leased at a certain fixed rental, subject to certain restrictions and safe-

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<sup>1</sup>—Art. 8, Const. South Dakota, 1889.



guards, as the honorable gentleman from Shoshone has suggested, and we can test certainly the merits of the case in that manner. That, however, I will admit, is subject to one objection, a serious one, and that is the objection urged by the gentleman from Bingham, that the water will be taken up mainly for the lands, if they are valuable at all, and that they are more valuable now than they will be in the future. I will admit that I am hardly satisfied as to what is just the best project, but certainly I do not favor the project of the gentleman from Idaho county that we preserve these lands intact for all time and lease them. I have been told by men who have farmed constantly through irrigating ditches that after a certain time they find their lands going down stream, as has been very well said by the gentleman from Ada (MR. MAXEY), that the character of the loam is such that constant irrigation tends to erosion, and gradually carrying away all the nutritious elements, the fructifying elements of the soil, so that after a certain length of time you get down to the subsoil or a substratum that is not fruitful at all. It does seem to erode now. Theoretically, I agree heartily with the gentleman from Idaho in his amendment, but I do not think as a matter of practical—sound practical business judgment, desiring to get the most we possibly can from our school lands, that his amendment is practical. I realize the danger which confronts us in the immediate sale of it. I am well aware that there are now probably crowds of covetous, hungry speculators and land grabbers, waiting for some chance to pounce down and grab choice school lands, and I believe we can check them in those pernicious designs by fixing the sale of it at a fair and reasonable rate, something like that suggested in the enabling act of eight dollars. I am rather in favor of a middle course. I think it might be best to say that they shall not be sold within three years. (Cries of "Question").

Mr. KING. I would like to say a few words, Mr. President, on these school land matters. In Kootenai

county originally it was mostly timbered, and the prairie country has been surveyed, and there is only two sections of school land in a whole township. If we adopt the system of leasing it will be impracticable there, for these reasons, that the timber land would naturally be cut off and destroyed more or less, and it would be impossible to keep any track of the wood destroyed. Now I have had experience up there. There are two sections of university land which are reserved in each township. They have four sections to survey. They go on and cut the timber off. I have been there four times within the last year, and the railroad company cuts a couple of hundred thousand ties every year; wherever it is most suitable for that purpose, they go there and take it. And you have to stand there with the sheriff to fight them off. We had ten thousand ties attached, but the damage to the land was tenfold more than the value of the timber. I think we should adopt a land system whereby the school land grant shall not be sold at a minimum price less than eight dollars an acre, to be agreed thereafter that the county commissioners in each county be a land commission. Now if you sell this land on twenty year's time, one-twentieth down and interest at seven per cent payable annually, and one-twentieth every year, the poor man with a small capital takes a chance to go on the land because he has twenty years to pay for it. If you sell it at auction at one time, it is of no benefit if you have the money put somewhere, but in twenty years drawing interest you get more profit. The Northern Pacific sell on ten years' time, one-tenth down the first year, pay nothing only the interest, the second year another tenth and interest. By the time the ten years is up the land is paid for. But the timber land—they have restrictions, that the tenth part of that quarter section shall be under cultivation, and the valley, and the prairie lands, of course have to be improved somewhat, there is a restriction there, but the company overlooks it a good deal, but they are very particular about the

timber land. If you take timber from the timber land you must make some improvement in return for it. The school land would be in the same position, because we have such diversities of soil, diversities of timber, and mountains and prairies and valleys; it is impossible to sell the land all at the same price; if you put it at ten dollars an acre, some of it is worth twenty to thirty. It is to our interest to see that the school lands are protected. The county commissioners have it in their power to have that land graded and make the sale, and in that manner you could get a better price than at auction. The railroad up our way asks eight dollars an acre for the land; you can get it in the next section for two dollars and a half, but to the government you have to pay cash for it, but the railroad allows ten years to pay for it in.

Mr. PINKHAM. I believe it is considered necessary by every member of this convention that the substance of the section under consideration should remain in the constitution. It may be amended in its typography to suit the views of some of the delegates in this convention; but the substance of it should be there and remain there. The amendment offered by the gentleman from Idaho county which we have been discussing for some time and listened to so much eloquence about, is not germane to the subject here under consideration, and should not be listened to for a moment. It properly belongs under Section 10, and if you adopt the amendment which the gentleman from Idaho county has offered to this section, there is another section in this article succeeding it which would have to be amended to suit it, and therefore I ask Mr. Claggett's Mr. Batten's and Mr. Clark's leave that the gentleman from Idaho county withdraw his amendment, to renew it again when we take up Section 10 for consideration. (Cries of "question").

The CHAIR. There was another amendment which came in first.

Mr. ALLEN. I am willing to withdraw it at this



time, in order that we may have ample time to discuss it at some other time. (Cries of "Question").

The CHAIR. The question is on the adoption of the amendment of the gentleman from Idaho county to amend Section 5 (4). You have heard it read.

SECRETARY reads Mr. Parker's amendment. (Vote).

The CHAIR. The noes appear to have it; the noes have it. The amendment is lost.

Mr. PINKHAM. I move the adoption of the section. (Sec. 5 (4). Seconded and carried).

Mr. WILSON. I move that the committee rise, report progress and ask leave to sit again. (Carried).

#### CONVENTION IN SESSION.

Mr. PRESIDENT in the Chair.

Mr. AINSLIE. Mr. Chairman, your committee of the Whole have had under consideration Article 9, the report of the committee on Education, Schools, School and University Lands, and have come to no conclusion thereon.

The CHAIR. If there is no objection, the report of the committee of the Whole shall be received.

Mr. McCONNELL. Mr. Chairman, the committee of the Whole, having had under consideration Article 8 (12), reports as follows: Mr. Chairman, the committee of the Whole having had under consideration the report of the committee on Municipal Corporations, ask leave to rise and report it back to the convention, with the recommendation that it be adopted as amended.

Mr. MORGAN. I move that the report be received. (Seconded).

The CHAIR. The chair will be compelled to rule that this motion is out of order, and it stands before the convention now for action under Rule 49. After being reported the propositions, with the amendments thereto, of the committee of the Whole shall be immediately taken up for consideration.

Mr. REID. Mr. Chairman, I move that the report

of the committee be laid upon the table for the present, and take its place with the other reports to be considered. (Seconded and carried).

Mr. GRAY. I move that we adjourn until tomorrow morning at nine o'clock. (Division called for. Rising vote 26 ayes, 16 nays).

The CHAIR. The motion prevails, and the convention stands adjourned until tomorrow morning at nine o'clock.

### SIXTEENTH DAY.

*July 23, 1889, 9:00 A. M.*

#### CONVENTION IN SESSION.

Prayer by the chaplain.

Roll-call.

Present: Ainslie, Allen, Anderson, Armstrong, Ballentine, Batten, Beatty, Bevan, Blake, Brigham, Campbell, Chaney, Clark, Coston, Crutcher, Gray, Hampton, Harris, Harkness, Hasbrouck, Hays, Heyburn, Hogan, King, Kinport, Lamoreaux, Maxey, Mayhew, McConnell, McMahan, Melder, Myer, Morgan, Moss, Parker, Pierce, Pinkham, Poe, Pritchard, Pyeatt, Reid, Robbins, Salisbury, Savidge, Sinnott, Shoup, Steunenbergh, Sweet, Taylor, Underwood, Vineyard, Whitton, Wilson, Mr. President.

Absent: Andrews, Beane, Cavanah, Crook, Glidden, Hagan, Hammell, Hendryx, Howe, Jewell, Lemp, Lewis, Pefley, Standrod, Stull, Woods.

The CHAIR. The secretary will resume the reading of the journal that was passed yesterday as not being complete.

Mr. MORGAN. I move that the report of the committee of the Whole on Legislative Department be dispensed with.

The CHAIR. If there is no objection it will be so ordered.

Mr. MORGAN. I move that the further reading of the journal be dispensed with. (Seconded and carried).

#### CORRECTION TO JOURNAL.

Mr. WILSON. There is a portion of the journal