

passes to the members of the legislature going to or coming from a session of that body.”

“Question, question.”

The question is put by the chair.

Mr. ANDERSON. Aye. (All other members: No).

The CHAIR. The amendment is lost.

Mr. MAYHEW. Mr. Chairman, it is six o'clock, and I move that the committee rise, report progress, and ask leave to sit again. (Seconded and carried).

CONVENTION IN SESSION.

Mr. CLAGGETT in the Chair.

Mr. POE. Mr. President, your committee of the Whole, having under consideration the question of Public and Private Corporations, beg leave to report progress and ask leave to sit again.

The CHAIR. If there is no objection the report will be received and it is so ordered.

On motion duly seconded the convention adjourned until 9:00 o'clock tomorrow morning, Thursday, July 25, 1889.

EIGHTEENTH DAY.

THURSDAY, *July 25, 1889, 10:00 o'Clock A. M.*

Convention called to order by the president.

Prayer by chaplain.

Roll-call: 32 present.

The CHAIR. There not being a quorum present, it is impossible for the convention at this time to transact business.

Mr. McCONNELL. I suggest that the sergeant-at-arms be instructed to notify the democratic members who are in caucus that we are now in convention and ready to proceed to business.

Mr. HEYBURN. I second the motion.

The CHAIR. If there are no objection it will be so ordered. (After a few minutes). The sergeant-at-arms informs the chair that the democratic members desire a few minutes more time.

Mr. HEYBURN. I move that we take an informal recess of ten minutes. (Seconded and carried).

The journal is read.

Mr. POE. Mr. President, there were a good many of us absent at the time of roll-call, and I do not presume it would be possible for the clerk to make up a correct list of the absentees who were in the building. They were unavoidably detained from being present, and in order that the clerk may be able to correct the statement of those who were present and absent, I think it would be well to have the roll called again, and I would ask that that be ordered.

The CHAIR. The clerk will call the roll.

The roll was called. Present:

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

Absent: Hendryx, Lemp, McMahan.

Excused: Andrews, Cavanah, Crook, Hagan, Hammell, Stull, Woods.

SECRETARY reads journal of yesterday's proceedings.

Mr. POE. Mr. President, I do not see the necessity of the secretary reading and recapitulating all the sections and provisions and amendments that are made in committee of the Whole. I think it is sufficient for that record to show that the committee of the Whole had a certain matter under consideration and that they reported.

The SECRETARY. The secretary is now reading the report of the committee of the Whole.

Mr. POE. I move then that the further reading of it be dispensed with.

The CHAIR. It will be so ordered. Gentlemen of the convention, the hour has arrived, fixed upon day before yesterday for the consideration in the committee

of the Whole of the report of the committee on Suffrage and Elections. No motion is necessary to go into committee of the Whole for this purpose. The chair will call Mr. McConnell into the chair.

COMMITTEE OF THE WHOLE IN SESSION.

Mr. McCONNELL in the Chair.

The CHAIR. Gentlemen, the subject under consideration is the special order of the day, which is to consider the majority and minority reports of the committee on Elections and Suffrage.

Mr. BEATTY. Mr. Chairman, I presume the minority report would be first in order, unless there is a motion made to the contrary, and therefore I move that we take up the majority report instead of the minority report, and consider it section by section.

Mr. MAYHEW. Mr. Chairman, before that is done, I would like to ask the gentleman if this is in accordance with the rules. I understand that the rules are that the minority report shall be taken up first; now, if that is the rule, it requires a suspension of the rule to take up the majority report, and in order to do that it would take a majority to suspend the rule.

Mr. BEATTY. I will amend the motion and put it in this form, that the rule be suspended and that the majority report be taken up.

Mr. AINSLIE. Mr. Chairman, before that motion is put, I will state that after full and repeated conferences between the majority and minority we have found that our differences have not been so serious as we thought they were. On behalf of the minority of the committee I ask unanimous consent that the report of the minority be laid aside, and the report of the majority be taken up for consideration and amendment.

The CHAIR. If there are no objections it will be so ordered.

ARTICLE VI., SECTION 1¹.

SECRETARY reads Section 1 and it is moved and seconded that the same be adopted. (Carried).

SECTION 2.

SECRETARY reads Section 2 and it is moved that the same be adopted.

Mr. BALLENTINE. I have an amendment to offer.

SECRETARY reads: After the word "law" in the fourth line insert the following: "and who shall have paid a state or county tax within two years preceding such election."

It is moved and seconded that the amendment be adopted.

Mr. SHOUP. Mr. Chairman, I think our Bill of Rights provides that there shall be no property qualification required.

Mr. BALLENTINE. I will state for the benefit of the gentlemen that this requires no property qualification. It merely requires that those exercising the right of suffrage shall pay state or county tax before they shall exercise that right. It does not require a property qualification at all.

Mr. GRAY. Suppose the elector has got nothing to pay on.

Mr. BALLENTINE. There is always a road or school tax assessed against every individual in the territory. Any of those taxes will give him the right to vote.

Mr. GRAY. After he is over sixty years old he does not have to pay a poll tax, and then there is nothing but a property tax outside of that.

Mr. BALLENTINE. Road tax.

Mr. GRAY. Not over fifty years.

Mr. AINSLIE. Mr. Chairman, I don't think that amendment is proper. I know a great many advocate

¹—As originally reported and adopted at that time, this section read: "All elections by the people must be by ballot."

the idea that a man shall not vote unless he pays taxes; but I am not in favor of debarring a man of the right to vote because he is poor and cannot pay taxes. I believe in allowing every man to vote that is a law-abiding citizen of the United States.

Mr. PARKER. In Idaho county we have five hundred Chinamen. I should like to know whether under the provisions of this amendment these Chinamen will have a right to vote, since they are all tax-payers.

Mr. BALLENTINE. Not unless they are citizens.

Mr. SWEET. I have an amendment.

SECRETARY reads: Amend line 5 Section 2 by striking out the words "other than sex" after the word "qualifications."

The CHAIR. The other amendment is in order first.

Mr. REID. I would like to offer this amendment following the amendment of the gentleman from Ada.

SECRETARY reads: Strike out of line 4 "until otherwise provided by the legislature."

Mr. REID. It allows, if gentlemen will notice, the right of suffrage to females to vote for school offices, depending upon the will of the legislature. I want to fix it in the constitution so that they will be allowed to vote, whether the legislature desires it or not, for school officers.

The CHAIR. The question is upon the adoption of the amendment first offered.

The vote is taken and the amendment lost.

The CHAIR. The question is now upon the amendment offered by Mr. Sweet.

Mr. SWEET. I just wish to read this as it will read after that is adopted: "Women who have the qualifications prescribed in this article, may continue to hold such offices and vote at such elections as prescribed by the laws of Idaho territory." I do not see that the words "women, who have the qualifications other than sex" cut any figure in the matter.

The CHAIR. Please read that again.

SECRETARY reads: Amend line 5 of Section 2 by striking out the words "other than sex" after the word "qualifications."

Mr. CLAGGETT. Mr. Chairman, if those words are stricken out, it will operate to enfranchise every woman in this territory on all subjects, and Mrs. Duniway has her day, if you strike those matters out, "qualifications other than sex."

Mr. SWEET. I don't strike out "qualifications" but "other than sex."

Mr. CLAGGETT. That is just exactly what I mean. If you strike out the words "other than sex," it will read "women who have the qualifications herein provided," namely, who are citizens of the United States and twenty-one years of age, will have the right to vote.

Mr. MORGAN. For school officers.

Mr. CLAGGETT. Of course; it says male citizens may vote, and also women, who have the qualifications may vote. You will have to consider the two things together. It would operate exactly as an enfranchisement of the two sexes. It may be an awkward section, but that is the legal effect of it.

Mr. BEATTY. The language is not exactly as I would like to have it in all respects; it is very awkward to express just what you want without making a long sentence. As the member from Shoshone has said, you leave that out and see the result: "Until otherwise provided by the legislature, women, who have the qualifications prescribed in this article."

Mr. HEYBURN. May do what?

Mr. BEATTY. "May continue to hold such school offices and vote at such school elections as provided by the laws of Idaho Territory." Well, perhaps it conveys the idea.

Mr. CLAGGETT. If you are going to put it on the question of English, no woman can have the qualification of being a male citizen of the United States (laughter) unless you put in the words "other than sex."

Mr. SHOUP. I think the minority report has this

provision in a great deal better form than it is here. (The provision is read).

The CHAIR. The question is upon the adoption of the amendment offered by the gentleman from Latah. (Vote). The noes seem to have it. (Cries of "Division." On a rising vote there were twenty-eight for and twenty-seven against).

The CHAIR. The amendment is adopted.

Mr. PIERCE. I desire to amend by inserting in line 2 after the words "United States," the words "of or over."

The CHAIR. The first amendment now in order is that offered by Mr. Reid.

SECRETARY reads: Strike out of line 4 "and until otherwise provided by the legislature."

Mr. REID. I will state that the object of that amendment is to fix it in the constitution, and not leave it to the will of the legislature; if you leave those words in there "until otherwise provided by the legislature," the first legislature that meets may by the majority vote, disfranchise women so far as voting for school offices may be concerned. We have a statute, it is true, now, that allows them to vote at school elections,¹ and also to hold the office of superintendent of public instruction. I think we had as well fix that in the constitution and have it understood, as to have it the creature and subject of the legislature, and therefore I move to strike out those words.

Mr. GRAY. I am afraid that when those words are stricken out, they are restricted and can go no further than school elections. If the legislature at any time sees fit to allow women to vote upon all elections, I am

¹—Act of Feb. 21, 1879, allowed unmarried women who were taxpayers to vote at school tax elections.—Sess. Laws 1879, p. 21. Sec. 44, Act of Feb. 5, 1885, abolished the sex qualification in school elections and officers. Sess. Laws 1885, p. 194. Said Sec. 44, however, was omitted from the revised school laws of 1887.

willing they should do so; but I wish to leave that an open question.

Mr. REID. If that is the case I will withdraw my amendment, because I am in favor of their voting on any election they want to; but if you will read the first line which says "male citizens," the legislature will be restricted, and this limit is that they may go on and vote until the legislature provides otherwise. What otherwise? That is, disfranchise them.

Mr. GRAY. Just as provided by law.

Mr. REID. But the law provides that he must be a male citizen, except they may vote for school offices, and then says, vote for school offices until the legislature provides otherwise. That is the reason I want it; I don't want the legislature to strike it down. If they will strike out the word "male," I will vote for the amendment more heartily than I do now.

Mr. GRAY. I am afraid if that be stricken out, it is taking it away from the legislature in the future.

Mr. REID. It takes it away as I understand—if the gentleman will permit me to interrupt him—it takes it out of the power of the legislature to provide it.

Mr. MAYHEW. Do you say, Mr. Reid, that you are in favor of woman suffrage?

Mr. REID. I am. (Laughter).

Mr. GRAY. Mr. Chairman, it restricts the legislature to go any farther than that.

Mr. BEATTY. Mr. Chairman, I will have to object to the amendment proposed by my friend from Nez Perce. It will defeat the very object he has in view, in my opinion. Let me read it as it will read without that amendment. "Women, who have the qualifications prescribed in this article may continue to hold such school offices and vote at such school elections as provided now by law." Her right now to vote is limited under the law, and if you strike out the provision Mr. Reid proposes, we come then within that decision in Nevada'

¹—Whitney v. Findley, 20 Nev. 198.

where you prescribe a qualification and leave no limit, and the legislature can never go beyond that. The idea of the draftsman of that section is to allow the legislature in the future to extend her right of suffrage farther than it is allowed now as to school elections; but of course no provision is made for general elections or for anything but in school elections. I do not remember exactly what the law now allows her in the way of suffrage in school elections, but it is limited. And for one, I would like to leave this section so that the legislature may extend the power to vote at other school elections than those now allowed.

Mr. REID. Allow me to interrupt. The very language there is that you have the qualifications limited. The legislature cannot extend it. They have got to have the qualifications in this article, and they cannot exceed that, because this article does not extend the right of suffrage to other persons than those named in the article, and therefore the legislature cannot extend it. But if you leave that language in there they can abridge it.

Mr. BEATTY. They can extend it as to school elections. As I say, now, she is allowed to vote, I think, merely for trustees, but admit for argument's sake that she is allowed to vote simply for trustees. If you strike out that clause and leave it to the legislature to extend to them the power to vote at other school elections than that, it would be restricted simply to what the law now is. In other words, it would amount to this: That you say that women may vote only at such school elections as the law now provides she may vote at. That is what the clause would amount to if you make the amendment. Now, whenever you do that, you restrict her power to vote simply to what the law now provides, and that comes exactly within the Nevada decision, as well as one in Wisconsin,¹ which holds that unless you make

¹—See *State v. Williams*, 5 Wis. 308.

State v. Baker, 38 Wis. 86.

some limit the legislature never can extend it. And I want this section to so read that the legislature in the future may give her full authority to vote at all school elections. It is now limited; I am quite sure she has not the right to vote at all school elections, but I think only for trustees. I am sure if you take out this clause you then limit her to vote simply as the law now prescribes and the legislature can never extend it, nor could the legislature restrict it; but there is no danger in my opinion of the legislature ever restricting it, unless legislatures change very much from what they have been in Idaho Territory a long time. Of course I admit, with my friend from Nez Perce, that with this clause in, the legislature may repeal all the rights she now has to vote.

Mr. REID. That is what I am getting at.

Mr. BEATTY. But with that clause in, it leaves the legislature not only to sustain the rights she has, but to extend them; and if you strike it out you limit the power of the legislature to extend them, and that is what I do not want to do.

“Question, question.”

Mr. HEYBURN. Mr. Chairman, this section provides not only that women may vote, but that they may hold office; and we have in some other measures adopted in this convention, provided that a superintendent of public instruction, both in the state and in the various counties, shall perform certain duties as land commissioner. If I am not mistaken, in the provisions of an act of the last legislature,¹ they allow this office to be filled by a woman. I am in favor of women voting for school trustees and holding strictly school offices; but I do not think it is appropriate or proper that a woman should be allowed to or should hold the office of land commissioner under such terms and conditions as have been prescribed by the sections we have already adopted. Therefore, I think that probably if we strike out that

¹—Act of Jan. 25, 1889: Sess. Laws 1889, p. 11, (validating the election of female county school superintendents).

provision which will enable the legislature to limit her duties, if she does hold the position of school trustee or superintendent of public instruction, simply to those things that pertain to public instruction, and to provide for a separate conduct of the affairs of the land commission, we will have made a mistake.

Mr. REID. Will the gentleman allow me to interrupt him? That provision in the bill providing for land commissioner, or that the superintendent of public instruction shall be land commissioner, was stricken out; so it leaves that entirely to be appointed by the state.

Mr. HEYBURN. That the gentleman will find pertains to the superintendent of counties, it does not pertain to the superintendent of public instruction generally. I want to see the provisions of this bill before I vote upon it, so that I may vote upon it intelligently. I have just got the act of the last legislature upon the subject. I think we ought not to deprive the legislature of the power to regulate this, if there is any possibility of finding ourselves with a lady commissioner of lands on hand.

Mr. REID. If the gentleman will look at the laws of Idaho Territory he will find that very point is provided for.

Mr. HEYBURN. That means, as provided now by the laws of Idaho Territory, is provided in this act, which I am going to examine. But it does not allow the laws of Idaho Territory in fact to provide for it, as that sentence is sought to be stricken out.

“Question, question.” (Vote).

The CHAIR. The motion to adopt the amendment offered by the gentleman from Nez Perce is lost.

Mr. HARRIS. I have an amendment.

The CHAIR. There is an amendment preceding that.

SECRETARY reads: Amendment offered by Mr. Pierce. To amend by inserting in line 2 after the words “United States” the words “of or over.”

The CHAIR. The amendment offered by Mr. Pierce has not been seconded. (Seconded).

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

Mr. REID. The gentleman from Shoshone just passed up an amendment, and I rise to a point of order that all the amendments be put in before any votes are taken.

The CHAIR. Have them all read.

SECRETARY reads: I move to strike out the word "male" in line 1, and strike out all the section after the word "election" in line 4. Harris.

Move to strike out the word "male" in the first line. King.

Move to strike out the word "male" in the first line and insert the words "or she" in the third line, and strike out all in the section after the word "elector" in the fourth line. Sinnott.

Mr. HARRIS. That should have been "elector" instead of "election."

The CHAIR. The question is upon the adoption of the amendment offered by Mr. Pierce.

Mr. BEATTY. I hope that amendment will not be adopted. It is explicit and clear enough. "Every male citizen of the United States twenty-one years old." No court will ever have any hesitation in construing that language, and I hope these amendments that are not important will not be adopted; it only encumbers the record.

The CHAIR. All those in favor of the amendment say aye.

Mr. PIERCE. Aye!

The CHAIR. All those opposed vote no.

Every member: No.

The CHAIR. It *seems* to be lost. It *is* lost. (Laughter). The question is now upon the amendment offered by Mr. Harris.

Mr. REID. Read it.

SECRETARY reads: Move to strike out the word

“male” in the line 1 and strike out all of the section after the word “elector” in line 4.

The vote is taken and the amendment lost.

SECRETARY reads: Move to strike out the word “male” in the first line of Section 2. King.

It is moved and seconded that the amendment be adopted.

Mr. KING. I am in favor of allowing the largest liberty to every citizen of the United States; and I firmly believe that a majority of the women of this territory, or in any state of the Union, are just as well qualified for the right of suffrage as the average man. And there are thousands, tens of thousands and hundreds of thousands of women, ten thousand times better qualified than one-half of the men that vote in these United States. (Great applause).

The vote is taken and division called for. Upon a rising vote twenty were counted for and thirty-six against the amendment.

The CHAIR. The amendment is lost.

SECRETARY reads: Strike out the word “male” in the first line and insert the words “or she” in the third line; and strike out all in line four after the word “elector.” Sinnott.

Mr. BEATTY. I rise to a point of order, and that is this: That amendment has now been voted down twice. It is not in order.

“Question, question.”

Mr. GRAY. That was the amendment offered by the gentleman from Washington to strike out from line 4 and it was the amendment offered by the gentleman from Kootenai or Shoshone to strike out the word “male.”

Mr. REID. The gentleman inserts another word. which does not make it identical.

The CHAIR. The chair is inclined to deal very liberally in allowing amendments.

Mr. CLAGGETT. I call for a division of the amendment and let us vote on each one of them.

Mr. AINSLIE. I would like to have that amendment read.

Mr. SINNOTT. I want to make a correction there that I neglected. The words "or she" to be inserted after the word "he" in the third line.

The CHAIR. Will the secretary read it as it will read if the amendment is adopted?

SECRETARY reads: Except as in this article otherwise provided, every citizen of the United States, twenty-one years old, who has actually resided in the state or territory for six months and in the county where he or she offers to vote, thirty days next preceding the day of election, if registered as provided by law, is a qualified elector. That is the way it will read if amended.

The CHAIR. The question is on the adoption of the amendment. (Vote). The noes have it.

"Division."

The CHAIR. Too late.

Mr. BEATTY. I now move the adoption of the section as amended.

The vote is taken and Section 2 adopted.

SECTION 3.

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

Mr. AINSLIE. I have an amendment.

Mr. BEATTY. I now move the adoption of the section. (Seconded).

Mr. AINSLIE. I have an amendment which I think will be substantially agreed upon by the majority and minority both.

Mr. SHOUP. I wish to offer an amendment.

Amend Section 3 by striking out all after the word "state" in line 14 and insert the following:

"Nor shall Chinese, or persons of Mongolian descent, not born in the United States, nor Indians not taxed, who have not severed their tribal relations and adopted the habits of civilization, either vote, serve as jurors or hold any civil office."

Mr. BEATTY. Mr. Chairman, that amendment embodies what, for one, I am willing should go in there, and I see no objections to it whatever. I desire to have the section so amended as to include Chinese, which was an omission in the report as made, and likewise Indians. I believe that amendment will make the correction I desire in this section and I will therefore accept the amendment.

The CHAIR. If there are no objections to the amendment as read, it will be accepted by the convention. I did not hear it read but once. I did not get it all in my mind. The greatest desire is to exclude Indians and Chinese and Mongolians from any participation in the elective franchise until they become properly qualified under the law. I believe that reaches it.

SECRETARY reads: "Amend Section 3 by striking out all after the word "state" in line 14 and insert the following:

"Nor shall Chinese, or persons of Mongolian descent, not born in the United States, nor Indians not taxed, who have not severed their tribal relations and adopted the habits of civilization, either vote, serve as jurors or hold any civil office." ("Question").

It is moved and seconded that the amendment be adopted. Carried.

SECRETARY reads: "Amend Section 3, after the word 'legislature' in line 15 by inserting: 'provided that persons *non compos mentis*, under guardianship, idiotic or insane, who are disqualified from voting or holding office, under the provisions of this section, shall be exempt from taxation during the existence of such disfranchisement.'" Parker.

Amend Section 3 by inserting after the word "crime" in line 4, the words "who have not been restored to the rights of citizenship." Shoup.

Mr. Claggett offers an amendment to strike out the words "*non compos mentis*" in the second line.

The CHAIR. The question is first upon the amend-

ment offered by Mr. Parker of Idaho. Let us have the amendment read.

SECRETARY reads Parker's amendment.

Mr. PARKER. I have offered the amendment for the purpose of pinning this convention down to a consideration of the fundamental principles of human rights, and under a democratic form of government; principles which seem to have been so much overlooked and ignored, I am sorry to say, in the deliberations of this convention. Mr. President, it is a surprising thing that men will give their assent to doctrines and principles and maintain them until they are hoarse, but when they are called upon to make a practical application of them, they will sacrifice those rights and those principles and repudiate them for the sake of the political exigency of a partisan necessity. Mr. President, I have always been taught to believe that it was a principle of our government, one of its fundamental principles, and the cornerstone of American institutions, that there should be no taxation without representation. And now, by the majority report, as introduced, a large portion of our fellow citizens are to be disfranchised and at the same time they are to be taxed, and their money taken away from them without their consent. There are a good many questions involved in this, Mr. President. It is ordained by the Constitution of the United States, Amendments, Article 1, that congress shall make no law respecting any establishment of religion or prohibiting the free exercise thereof, and you will find the same prohibition announced in the constitutions of the several states, and without any kind of qualifications or limit upon the free exercise of religious worship whatsoever. Mr. President, I believe the men who formulated that Constitution of the United States, and who formulated the constitutions of the several states, were men who loved liberty more than they loved party association, and they recognized fundamental principles. They announced in the federal constitution and in the subordinate constitutions principles which govern all the states.

of the Union. Mr. President, I read the Declaration of Independence this morning, and I found there among the indictments against King George, the first was that he had taxed the colonists without giving them any representation in the government of Great Britain, or in the government of the colonies. I hold to the belief that the exercise of the franchise, the right to vote, is the foundation of the democratic form of government, that it is the democratic principle of our government, and that in a democratic form of government, there can be no exercise of the right of citizenship without the exercise of the right of suffrage, and I maintain that it is of the very first importance that there shall be no restrictions whatsoever placed upon the exercise of that right of ours. Why, Mr. President, the power of the people is but a name, it is but a shadow of title, insufficient for the needs and maintenance of a democratic form of government, if you take away the rights of the people and vest them in the legislature and allow the legislative power to prescribe qualifications and limits as to who shall vote or who shall not vote. Enforcing such a principle as this reduces the people from the state of liberty and independence, which they enjoy in theory, to a state of legislative despotism, a despotism which is none the less odious to me and to you when we think of it, because these legislators are our representatives. And you will find that the outcome of such legislation is the ultimate subversion of all free government and the introduction of anarchy. Shall I tell you what has been the object of such legislative usurpation? The only safe practice in such a government as this is to lay down the hard and fast lines that no party and no body, legislative or otherwise, is allowed to suspend the liberty or to restrict the privileges of any law-abiding citizen. That principle once surrendered, Mr. President, free government becomes only a form and trembles under every attack. I have watched this legislation which has been enacted in this territorial community, and I say that we are drifting further and fur-

ther from the old safeguards and encroaching more and more dangerously on constitutional rights, and I, for one, raise my voice in protest against it. I am opposed to putting into the organic law of our state, such stuff—such stuff, I call it, as this majority report would incorporate into that organic law. Now, Mr. President, this report is designed for no other purpose than to disfranchise a class of religious enthusiasts, who do not believe as you do, and who do not believe as I do, and who do not believe as the gentlemen on the floor believe. In the good old days, the religious bigot used the rack, and the state was an engine of religious persecution, but in these more enlightened days, in the last decade of the nineteenth century, we are much more tolerant. But now, in the making of constitutional law, we hasten to impose political disabilities upon those of our fellow citizens who do not believe as we do, and we seek to convince those people that they are wrong, by depriving them of their political rights.

There is another phase of this question which is worthy of consideration——

Gavel falls. “Question, question.”

Mr. PARKER. Is not that a short ten minutes, Mr. President?

“Question, question.”

SECRETARY reads: After the word “Legislature” in line 15 insert “Provided that persons, *non compos mentis*, under guardianship, idiotic or insane, so disqualified from voting or holding office under the provisions of this section, shall be exempt from taxation during the period of such disfranchisement.”

“Question, question.” (Vote).

The CHAIR. The motion is lost.

SECRETARY reads: Amend Section 3 by inserting after the word “crime” in line 4, the words “and who has not been restored to the rights of citizenship.”

Mr. GRAY. Mr. Chairman, I hope that amendment will prevail. It is for this reason, principally, that any man who had been convicted of crime is forever de-

prived of the right of franchise and of holding office. This amendment goes thus far and no further, that is, provides on his being by proper authority restored to his civil rights. If he has been so restored, I say it is our duty to recognize him and lend a helping hand to help this poor man. Perhaps he may have been wrongfully convicted, but let us not regard that after he has been restored to his civil rights, let us take him as a man and try him again, not crush him and keep him down all his life. But we will trust that wherever the pardoning power exercises the right to restore the civil rights, and that wherever it may be in this state or anywhere else, we will hope and trust that it has been properly guarded, and that without good reasons for it, he would not have been so restored. And now I hope this amendment may prevail, for I see no reason why it should not. It is a mistake to mark a man when he has been convicted as a criminal and always regard him as a criminal. Don't let us keep our hands upon him his entire life; raise him, help him, be charitable to him, and let us trust the pardoning power to exercise it properly.

Mr. MAYHEW. What is the amendment?

The CHAIR. Amend Section 3 by inserting after the word "crime" in line 4, the words "who has not been restored to the rights of citizenship."

Mr. BEATTY. Mr. Chairman, that is another amendment, I, as chairman of the committee, am not willing to accept.

Mr. MAYHEW. I did not suppose there was any opposition to that amendment at all.

Mr. BEATTY. I beg to differ with the honorable gentleman. There is some opposition, and I beg to state my reasons. The gentleman from Ada said, if he had been convicted of any crime, that it would forever brand him. You will notice the read section confines it to cases of treason, felony, embezzlement of public funds, bartering and selling his vote, or other infamous crime. Now, there are a great many men who have

been convicted of these crimes, and some have been convicted of polygamy; a great many more may be. I do not believe those men, even if they should be pardoned out, would be worthy of the franchise, nor do I believe that a man who has been convicted of deliberate crime of high grade ever becomes so purified that he is entitled to the franchise. It is a very common custom in some sections of the country, that they pardon a man out a day before his term of imprisonment expires, for the very purpose of giving him the right of franchise, and that is often done for a political reason. I have known cases where men were pardoned simply to add a few more votes upon the side of the political party which may have pardoned them, but these pardons often occur only a day or so before the term expires, and without any regard to the reformation of the prisoner. And I think that this section had better stand as it is. It is a common experience, that after a man has committed an infamous crime, he is not likely to be a fit subject for citizenship or the right of suffrage, and I think we will not do as much damage by leaving it as it is, as by amending it.

Mr. MAYHEW. If a man has been convicted of polygamy or bigamy or the crimes enumerated in this section, and has been pardoned by the governor, that does not restore him to citizenship, if he continues in violation of the law; if he commits the crime over again after serving time and is convicted again. If those parties belonging to this church are determined to continue in unlawful acts after they have once been released, they do not and cannot assume their right of suffrage, even under the provisions of this constitution; nor can they assume their rights under the laws now existing in this territory, if they are required to take oath that they do not adhere to, advise or counsel, or advocate, or aid, or abet, or assist those institutions. I think probably the purpose of the amendment as offered by the gentleman from Custer, Mr. Shoup, is

the purpose of restoring those parties to the right of citizenship, who have been convicted of crimes other than polygamy or bigamy. While that is a matter to remain under the statute as in this article, as the gentleman from Alturas suggests, just those parties who have been convicted of other crimes, not polygamy or bigamy, can be restored, and in my opinion they should be restored, but I am not in favor of restoring a person because he has been convicted once of bigamy or polygamy, and served his time in the penitentiary and then goes out and repeats that offense; I do not think he is entitled to citizenship, and I do not think we can confer it even under the laws as they exist, but I believe in letting the other parties vote. As the gentleman says, it may be in some manner the man has been convicted wrongfully, but whether he had been convicted wrongfully or not, through the clemency of the executive of this territory, proper representations being made to him, he should be restored to citizenship, and that pardon should restore also the right to vote. He has been purged of the crime committed, suffered the penalty, and should be entitled to vote. But if it remains as it is, I fear those parties will not be allowed to vote.

Mr. AINSLIE. I think that the amendment offered by the gentleman from Custer is very proper. Under the article adopted the governor, secretary of state, and attorney general, are made the board of pardons, and unless the legislature provides or recommends that the judiciary can restore citizenship, I think when you have a board of pardons, you can safely place at their discretion the power to restore citizenship. I think it is a provision that should be incorporated.

Mr. BEATTY. I would like to ask the gentleman a question. Under the provision as incorporated, will it not also extend to those pardoned, in other words, to even a felony case?

Mr. GRAY. That is my understanding; should he secure a pardon from them it would be sufficient for use under any and all circumstances, and he would need to

look no further. We must have that charitableness and that confidence in their status and in the execution of the pardoning power, we must allow it, that is the idea, and just because a man is convicted of a crime and suffered the penalty, is not conclusive; he may be innocent. But in any case, I say, we must abide by the clemency which the pardoning power has seen fit to allow and extend the courtesy to them of assuming that they have acted properly. But keep your hand on a man once convicted, all the days of his life, and what will he amount to. Put that blemish on him and keep him there and give him no opportunity? Punishment is not alone for the purpose of torture, but for reformation.

Mr. CLAGGETT. Mr. Chairman, I offered an amendment to the pending amendment.

SECRETARY reads: Strike out after the words in the third and fourth lines as follows: "felony, embezzlement of public funds," also the words "or other infamous crimes," so that as amended, the lines will read as follows: "been convicted of treason, or bartering or selling his vote."

Mr. CLAGGETT. I sympathize heartily with what has been said by the gentleman from Ada, Mr. Chairman, with regard to giving those parties who have been convicted of certain offenses no chance for reformation but my principal reason for thinking that the reiteration of these words in the section is unnecessary, is because the number of these persons is so small; but I do say this, that when a person has been convicted of treason against the state, which may be called treason as it is known at common law, or convicted of bartering or selling his vote, which is a species of petty treason, inasmuch as it attacks directly the foundations of the state itself and the purity of elections—that any person who is guilty of perpetrating these offenses should not be permitted to vote or hold office or to serve or sit as a juror. The most infamous offense which we have in these days to deal with is the matter of selling and bartering votes; therefore, I move to strike those other

matters out, and leave the matter entirely to the discretion of the legislature hereafter, because they may not make those disqualifications, but I think in the constitution we should limit this matter of disqualification to those who have been convicted of treason and selling their vote.

Mr. MAYHEW. If the gentleman would just add to his amendment, to make it a serious grade of offense that a person should offer to buy or buy a person's vote.

Mr. CLAGGETT. I will accept that amendment with the greatest approbation in the world.

Mr. MAYHEW. I will then support it.

Mr. GRAY. I think the amendment is out of order.

The CHAIR. The chair will consider the amendment.

SECRETARY reads: Strike out the words in the third and fourth lines as follows: "Felony, embezzlement of public funds;" also the words "or other infamous crimes," so that as amended it will read as follows: "Been convicted of treason or bartering or selling his vote, or purchasing or offering to purchase the vote of another."

Mr. GRAY. I shall oppose the amendment, and I hope the convention will. If it be such an infamous crime that it would not be proper for him to be pardoned, I will trust the board not to pardon him, but if they do it, I don't want it to go any further than that, that if the board in its action on the matter should say it was their duty, I am willing to submit it to their judgment, and if they say that he is worthy of being pardoned and shall relieve him, I ask that he may be received as a citizen. I believe it is but just to put these discriminations in there so that if for certain things he may be pardoned, although the pardoning board should do what they ought not to do, I trust they will do what is right, and I trust they can come as near doing what is right, perhaps, as this convention may do. I should hate to have it engrafted in this constitution that it may be less. Let these opinions be

ever so unjust, let your man be ever so innocent, or assume that he is guilty of the offense, whether he has been convicted of perjury or otherwise, I know not and I care not, but I say I will entrust it to that pardoning board, for I believe they will do what is right, and we must concede that we are not the only honest men in the world in this convention.

Mr. BEATTY. I am compelled again to object. It seems to me that the amendment proposed by my friend from Shoshone is worse than the other; this section is broadly drafted after the law as it now exists.¹ That law provides that no person under guardianship, *non compos mentis*, insane, or convicted of bribery in this territory, shall vote unless restored to his civil rights. This amendment proposes to strike out felony, embezzlement or other infamous crimes. In other words, this amendment proposes that anyone who has been convicted of felony or embezzlement of public funds, or any infamous crime, who shall have served out his term without receiving a pardon would be entitled to vote. Now this convention certainly does not want to authorize or enable those who have been convicted of felonies and other infamous crimes, and who shall have served out their full term, to then exercise the right of elective franchise. That cannot be the desire of this convention. That is not the law in any place. It has not been the law in Idaho. We have had this law upon the statute books——

Mr. SHOUP. It is the law in some states.

Mr. BEATTY. Well, it is not the law in Idaho at any rate, and it is not the general law; so far as I have observed constitutions, parties guilty of infamous crimes, unless pardoned, are deprived of their right of suffrage. I hope this amendment will not prevail. I would much prefer to see the amendment of the member from Custer prevail to this, because this does not exclude or prevent

¹—Act of Jan. 29, 1889, amending Sec. 501 Rev. Stat. 1887; Sess. Laws 1889, p. 14.

from voting, those who have served out their term and who have not been pardoned.

“Question, question.”

The CHAIR. The question is upon the adoption of the amendment offered by the gentleman from Shoshone to the amendment offered by the gentleman from Custer.

Mr. CLAGGETT. I would like to say one word by leave of the convention. I have offered this amendment in good faith, and I hope it will not be passed over hastily, and that it will not be voted down and not given a full and general consideration. The reason why I am willing to leave cases of parties convicted of felonies such as mentioned in the section as it is now, to be restored to civil rights by the board of pardons, is because I believe this class will be very small. Directly putting it in the constitution is like adding 5 and 0 together, it does not amount to anything one way or the other. But when it comes down to a man assailing the purity of the ballot, then we are reaching a question which does call for some action on the part of this convention, so far as the consideration of this proposition is concerned. If there is any one danger from which republican institutions have good cause to fear today, it is the danger which this amendment I have offered is intended to guard us against; I mean, the danger that government will fall to pieces through the corruption of the ballot, for that is the foundation of everything which we have developed; I do say this, that any man, I do not care who he is, who has bartered or sold his vote, has proved recreant to the trust which has been committed to his charge by the laws of his country; or he, who is even worse than the man who has bartered or sold it, who has yielded to the temptation—the briber who offers it—I do say that this man should never be allowed to exercise the right of suffrage and should not be allowed to hold office anywhere; that is in case of being charged with and of being convicted of it.

Mr. BEATTY. Let me ask you, so far as that latter clause is concerned—to exclude those that offer to

buy, I am perfectly willing as to that, but as I understand your amendment, Judge Claggett, it will allow those who have been convicted of a felony or any infamous crime to vote as soon as their term expires.

Mr. CLAGGETT. Other than those named there; those convicted of bartering or selling, or offering to barter or offering to purchase the vote of another.

Mr. BEATTY. If you put your last clause in and vote upon it separate, I would be glad to have it there, because I should be glad to vote for disfranchising those.

Mr. CLAGGETT. Well, I am not particular about it; I would like to have it put in that shape and add it as an amendment. I want that incorporated whether this is stricken out or not.

Mr. REID. I would like to ask the gentleman if the pardon of the executive does not restore a man anyway, to full civil rights, without the aid of this legislation. Suppose you disqualify him by constitutional provision, does not a pardon carry with it restoration of civil rights?

Mr. CLAGGETT. No sir, independent of the statute it does not. The reason why——

Mr. REID. I mean if it is in the constitution. Of course we can prohibit it by statute, but if he is just disqualified by the constitution, would not a pardon restore him to his rights?

Mr. CLAGGETT. No sir. Unless the constitution or statute so provided. A pardon is nothing more or less than a remission of the sentence of the law, so far as it remains unexecuted. That is the legal effect of a pardon, but in nearly all the constitutions, it is provided as it is proposed to be provided in this constitution, and not less provided in the state constitutions than provided in their state laws, that a party convicted of treason shall forfeit the right of suffrage, and in addition to that, they have the provision covered by the amendment offered by the gentleman from Ada, that the restoration of civil rights may restore political rights also. But in the absence of something to the contrary,

a pardon is nothing more or less than the interposition of the sovereign arm to stop the running of the sentence under the judgment of the court.

Mr. REID. Suppose the governor has been impeached and the sentence is removal from office. If after that time, the legislature restored him to citizenship with the usual enacting clause, would not that restore him to the right of suffrage under the amendment you propose?

Mr. CLAGGETT. No, it will not, because the amendment, I trust, absolutely forbids restoration to any civil right by constitutional inhibition. The amendment I propose is to this effect; that any person convicted of treason, or bartering or selling his vote, or purchasing or offering to purchase the vote of another, shall never hold office nor be permitted to vote, nor serve as a juror in the state of Idaho. Now the question comes in, whether you want to make it embrace the others which are already in, or whether you want to strike the others out, but confine it to those which are material.

Mr. REID. I don't see why your amendment, or as I understand your amendment, should exclude murder, arson, burglary, rape and larceny.

Mr. CLAGGETT. I do not care anything about them; I want these in, I don't care particularly whether you keep the others in. I would like to have the question divided.

Mr. BEATTY. I will ask for a division of the question; to vote first upon striking out these words "Felony, embezzlement of public funds, or other infamous crime."

Mr. POE. I am opposed to the amendment offered by the gentleman from Shoshone. I am heartily in favor of the amendment offered by the gentleman from Custer. I think it is proper, that it is right.

Mr. CLAGGETT. To bring the matter up in an orderly form, Mr. Chairman, I ask leave temporarily, to withdraw my amendment so that I can change its form after the pending amendment is disposed of.

The CHAIR. The question is now on the original amendment.

Mr. HEYBURN. Please read it.

SECRETARY reads: Insert after the word "crime" in line four, the words "and who has not been restored to the rights of citizenship."

"Question, question."

The chair puts the question. The amendment is adopted.

SECRETARY reads: Amend by striking out the words "*non compos mentis*" in the second line.

Mr. BEATTY. Do you want to offer that as including the words following?

Mr. CLAGGETT. That means a man of unsound mind and is covered by the words "idiotic or insane."

The CHAIR. The question is upon the amendment just read. (Vote). The chair is in doubt. (Rising vote—ayes 24; opposed 11). The amendment is adopted.

SECRETARY reads: Strike out all after the word "crimes" in the tenth line of Section 3 to the word "Indians" in the fourteenth line and insert: "the legislature shall provide that in any oath administered to the electors or by way of challenge at the polls, the following words shall be engrafted: 'I do not hold any kind of obligation or supposed duty, or revelation to justify the violation of the laws as interpreted by the courts.'" (Anderson).

Mr. ANDERSON. Mr. Chairman, the object of that is to avoid certain words "not a member of any body or organization." We discriminate against the members of an organization. I do not propose to argue the point, but just submit it. If we could get rid of these obnoxious words that all agree to affect the same body.

The CHAIR. The question is upon the adoption of the amendment which was read. (Vote). The amendment is lost.

SECRETARY reads: Insert the following after the word "marriage" in the thirteenth line: "or who

claims to have direct revelation from God to commit those crimes.”

Mr. CLAGGETT. Mr. Chairman, I sent up an amendment which I think comes in prior to this.

SECRETARY reads: Insert after the word “vote” in the fourth line, the words “or purchasing or offering to purchase the vote of another.”

The CHAIR. The question is upon the adoption of the amendment. (Vote). Carried.

Mr. BEATTY. That was put so hastily that I did not know what that amendment was.

The CHAIR. The vote has been announced.

Mr. BEATTY. I would like——

SECRETARY reads: Insert after the word “vote” in the fourth line the words “or purchasing or offering to purchase the vote of another.”

Mr. CLAGGETT. As I understand the matter the amendment offered by the gentleman from Ada was debated no more than that there should not be in the constitution an absolute disqualification by reason of conviction, but that civil rights might be restored by the proper legal authority. This amendment, I offer now, is to increase the number of parties who in case their legal disabilities are restored, shall, by proper authority, be authorized to exercise the elective franchise.

Mr. GRAY. What effect does this have upon the section?

Mr. CLAGGETT. It has none whatever upon the amendment you offer. It simply goes on and says that in addition to those parties who are disqualified in the section as it now stands, any person who is convicted of purchasing or offering to purchase the vote of another, shall also be disqualified unless his civil disabilities have been restored.

Mr. HEYBURN. Now I suggest to the member from Shoshone that he should also include those offering to sell their vote. You will find by inspection that they are not included. You simply mention the selling.

Mr. CLAGGETT. I do not like to put those things

in so frequently, because they are divisible, but I will put it in and ask a division on the question at the vote, and I will put it in as selling, bartering or purchasing or offering to purchase the vote of another.

The CHAIR. The question recurs again upon the adoption of the amendment. (Vote). The amendment is adopted.

SECRETARY reads: Insert the following after the word "marriage" in the thirteenth line: "or who claims to have direct revelation from God to commit those crimes."

The CHAIR. The question is upon the adoption. (Vote). The amendment is lost.

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

SECTION 4.

Section 4 read and it is moved and seconded that the same be adopted.

Br. BEATTY. Mr. Chairman, I have prepared there a substitute for this section which should be reported, and I think will satisfy the entire convention.

Mr. AINSLIE. The substitute is accepted by the minority of the committee also, and with this understanding we will lay aside the minority report.

SECRETARY reads: Amend Section 4 to read as follows: "Section 4. The legislature may prescribe qualifications, limitations and conditions for the right of suffrage concerning the classes and persons referred to in the immediately preceding section, additional to those prescribed therein, but shall never annul any provision in this article contained."

Mr. BEATTY. I move the adoption of the section.

Mr. MAYHEW. How can the legislature annul any organic act? If you will answer me this question.

Mr. BEATTY. Certainly, I am of the opinion that they cannot annul any organic act, but it was desired by many that that provision be put in there; it was put in after considerable discussion, and while I agree with the gentleman that no organic act can be

annulled by the legislature, many preferred it in. I saw no objection to be made to it and therefore have inserted it. Now, as to this amendment, it can readily be seen that the only advantage of this is that the legislature shall have power in the future to pass additional qualifications only as to those described and referred to in Section 3. That is the only change made in the provision, and I am happy to say it was made by agreement of both sides of this house, and I as chairman of this committee most readily assented to it, and after consulting the other members for the very purpose of avoiding any discussion, and that we might thus all come to a unanimous conclusion upon this important question, and therefore we have arrived at it.

“Question, question.”

Mr. AINSLIE. Before that is put I will state the position of the minority of the committee, the reason for their receding from the original minority report; that there was no violent difference of opinion between the minority and majority as to the restrictions to be placed in this constitution upon these bigamists and polygamists, or Mormons, if we are going to use the word for all of them, as to disfranchising them thoroughly. The only difference of opinion in the original reports was that we feared it might be extended by the legislature further than the majority had contemplated; that it might be applied to some of the secret societies, Masons and Odd Fellows, and some were of the opinion that it might reach as far as Catholics, and upon consultation with the majority of the committee, the minority thought it best to agree upon the substitute and confine it particularly to that class of people which it was intended for originally.

“Question, question.”

Mr. CLAGGETT. Mr. Chairman, I don't think we want to be rushed on this proposition; we have got rid of the nub of this whole Mormon business and I hope the chairman of the committee will draw his endorsement of this amendment. I want to speak with regard to this. This

is the first time I have heard the substitute read. The object of Section 3 after reaching the words "or who is a bigamist," in line 5 is to disfranchise the Mormons. Suppose we inquire how this matter will go in case the substitute is adopted. "The legislature may prescribe qualifications, limitations and conditions for the right of suffrage with regard to the classes heretofore enumerated additional to those prescribed in this article." Let's see. One class heretofore enumerated is this: Those who practice bigamy or polygamy or those who belong or who are members of an organization which teaches or advises it. Suppose the Mormon priesthood should have a revelation and should abandon polygamy bigamy, and after having done the latter, say the day came around when they took this test oath and you are unable to prove the question of their insincerity; by that professed change of front, then that class is stricken out and still the Mormons remain a power in the new state believing as they did before. And so when we come down to the second clause "or who is a member of an organization which teaches or advises that the laws of this state prescribing rules of civil conduct are not the supreme law of the state," you may pass additional limitations to that, but if that same church turns around and has a revelation and under its oath should come up and so far as the public is concerned, go on and claim they are good, law-abiding citizens and recognize the supremacy of the civil law in all matters of civil conduct, then they are swept out of these restrictions; and if you put this substitute in here your Mormons will be in power in this territory inside a year. I hope the convention will go slow on this proposition and let us consider what we are doing before we sacrifice the whole substance of the question that is before the convention. If you put it in another form, if you want to put it in in this form, that the legislature may prescribe qualifications, limitations and conditions for the right of suffrage in the case of all persons belonging to the church theocracy of Latter

Day Saints, additional to those prescribed in this article, that is all right enough, because it leaves you free to deal with this church. Let them change front on that proposition, and you adopt this substitute, and the Mormons are intrenched in power in this state; that is the inevitable conclusion to arrive at, and the only thing for all members of this convention to do, who are in favor of this disfranchisement in good faith, is to stand squarely by the provision as reported by the majority of this committee; "The legislature may prescribe qualifications, limitations," etc., "but shall never annul any provision in this article contained." In other words, inasmuch as the state is dealing with an adversary which does assume as many shapes as Proteus ever assumed of old, and can assume any shape it sees fit; can profess anything, and by virtue of its pretense that it receives revelations from on high, may relieve its members from the obligation of civil conduct, and even of religious duty, you must leave the power of the state as broad as the capacity of this sect, to change the front and manner of its attack and its defense.

Mr. REID. I dislike to differ with the distinguished gentleman who has preceded me, seeing that he is the only spokesman for it on the other side of the chamber. The only difference of agreement between the minority and majority of this committee has been on the fourth section of this article. That is, the minority took the position that a right so dear to us as suffrage, and so delicate, should not be left to the unlimited and unrestrained control of the legislature. After considering and having brooded on this matter for a week; after having postponed it the other day in the interest of the Mormons, and after a few got together, and after the democratic caucus had accepted the very identical substitute proposed by the chairman of the committee here, as covering the question in controversy, and we stand here ready to vote as a unit upon it, the gentleman comes in now and says, the bars must be let down, this controversy must be re-opened; and when the

question we are all agreed upon should be the downing of Mormonism, shoving the proposition into the convention for disagreement. I regret to differ with so distinguished a gentleman as he is, but I will take the matter up on its merits, and I take it that the chairman of the committee who drafted this substitute, his associates upon that committee, as well as the gentlemen of the minority of the committee, distinguished lawyers and learned lawyers, all striving to reach the same point, that is, to disfranchise the Mormons and control party interest, are now united; that both parties, democrats and republicans, are united in the one purpose, to put them down. And so now the question recurs—does this do it? Take the section and read it; “Who is a bigamist or a polygamist, or is living in what is known as,” etc.—does that cover every known form of violation? Still further, “that teaches, encourages or aids”—then what? “Any man who is a member of” a word by the by, a word which the gentleman knows in the case of the Chicago anarchists,¹ it was there held that that would make the fact of their being a member an overt act—then what do you do? “Any organization, association, corporation, or society, prescribing rules of civil conduct,” prescribing any rule of conduct, for example, those two evils that exist now. But suppose hereafter this prodigious monster, this hydra-headed monster, rears its head and prescribes a lower rule of civil conduct, in conflict with the laws of the state and of the United States—then what? The legislature may come in then under this section and prescribe laws, which it does now, that shall scotch that monster and deprive him of the rights of citizenship. It says that any association that teaches that the constitution of this state when it is admitted into the Union, or the constitution of the United States standing above this, is not the supreme law of the land, that then the legislature shall have power to do it. I was not in favor

¹—*Spies v. People*, 122 Ill. 1.

of clothing the legislature with the power to prescribe any additional qualifications for citizenship or suffrage. They might, as they are doing in Dakota, prescribe that the foreigner cannot vote for two years, although clothed by the United States with citizenship. They may prescribe as they are trying to do in some places, that the Catholics or Freemasons, or somebody else, should be deprived of it, and they may come in and strike down the suffrage in different ways; but having agreed upon the one thing, that is, that Mormonism should be put down, we have in this section put it down and given the legislature the supreme power not only to strike at its members, but at the class. Now, Mr. Chairman, I say, having agreed upon this, the chairman of the committee of the majority, and also the gentlemen representing the minority, and the two caucuses having got together and agreed upon this plan, which will take us out of the difficulty, upon which we can all agree, let us go forward with our labors to the next section in harmony, this great question that we all feared would produce shipwreck and throw us upon the quicksands, having been settled in this amicable way.

Therefore, let us stand by the agreement of our committees and our caucuses, and adopt this substitute, and then afterwards, speaking for the people of the north, as I believe I do, by their unanimous consent, we vote no Mormonism, and speaking unto the democrats and republicans of the south, if it should turn out that in our ignorance of the problem, we have not provided for the very purpose of putting down this monster, we will put a constitutional amendment through the first legislature, rise up, the Gentiles of this territory and all this new state, and put it down again. I hope, Mr. Chairman, that the substitute offered by the gentleman from Ada will prevail and that our agreement and understanding will be carried out.

Mr. BEATTY. Mr. Chairman, I confess that I am surprised at the position taken by my friend, Judge Claggett, from Shoshone. Mr. Chairman, I have not

assumed the responsibility of acting alone in this matter. It was of importance, it was hardly a secret, that this matter should be most carefully discussed, not only by the members of this convention, but by influential gentlemen outside of the convention, and this very conclusion was arrived at even without my presence or knowledge. When I found what the difficulty was with our friends upon the other side of the house, I consulted with the members of the committee, and I consulted with the other members of this convention, and while a few of the people consulted with thought there should be no change whatever, the majority, I think, and a large majority, assented to this change. I will not mention who on the outside of this convention have taken an interest in this matter, and have been consulted particularly, to arrive at this conclusion; but if I should mention, or had the authority to mention, the names of the gentlemen who have aided in this matter, and who have lent their advice thereon, backed by their long experience, I think you would be convinced that the chairman of this committee has not assumed any authority, and I wish to add that I have not taken this up upon my own motion, and that I wished to do that which would meet with the approval of my party as well as of my democratic friends, and make the future franchise—an important question, one of the fundamental questions—an honor to this convention, and that we may go forward to the people of Idaho without any division in our ranks, arm in arm and shoulder to shoulder, for statehood.

Let us see what there is in the proposition of my friend from Shoshone. If for one moment I thought this opened the doors to the enfranchisement of the Mormons and that hateful church, I would go as far as any man, back upon my word, if it was best to go back upon my word. My word as a matter of course, was given with the understanding and with the belief that this amendment does not change the relations at all of this church, does not give any opportunity or any

possible chance for them to come in and obtain enfranchisement under this provision. Let us see. Section 3 describes the class of persons who are to be disfranchised. Section 3 includes among those to be disfranchised, those who have committed certain offenses, and then comes the important part of this section which includes all polygamists, bigamists and members of the Mormon church, without naming the church, but that is what it means. Now what do we provide by Section 4? What is this amendment in which the gentleman sees so much danger and so much harm? It simply provides this in substance; that as to all persons included in Section 3, as to all members of the Mormon church, as to all polygamists and bigamists, the legislature in the future may legislate just as it pleases. Now I ask any lawyer here, if this section, and particularly that amendment, if that amendment will still allow the legislature, as to Mormons, as to those who are declared disfranchised, persons guilty of crime—if it will not allow the legislature still to legislate upon them just as if that section was not there at all? What does it prevent the legislature from legislating upon? It prevents them from legislating upon any other class outside of those named in this Section 3. It prevents the legislature, for instance, from disfranchising people because they belong to the Masonic fraternity, or because they belong to the Methodist society, or because they belong to any other organization; but it does not prevent the legislature from passing any law not in conflict with this, as to disenfranchising the Mormons. The section further carefully provides that none of the provisions of this section shall be repealed. Now that is safe beyond any question. Section 3 provides that the Mormons as a church, the members thereof, shall be disfranchised. Section 4 says no part of that provision shall be repealed, but it goes further and says that the legislature may add additional qualifications as to members of the Mormon church, and that is what we have been contending for all the time. I have the

utmost respect for the opinions of my friend, but at the same time I cannot agree with the suggestions he has made, that this in any way threatens to open the door to the enfranchisement of the Mormons in the future, and if I should be convinced of that, I would have to say to my democratic friends, that I have been lame in my judgment, that I had not been quite right in the matter of this amendment, and I would have to ask them to relieve me from any provision that would throw open the doors to the Mormon church, but I am not convinced of it; I feel and believe that the amendment leaves it just as we really designed to have it, that the legislature shall in the future enact any laws they desire upon that question, to disenfranchise the Mormons, so that they do not repeal any of the provisions of Section 3; that they are prevented from repealing those by this positive provision.

A MEMBER. I move we adjourn.

Mr. HEYBURN. I move the committee rise, report progress, and ask leave to sit again.

Mr. MORGAN. I wish to make the announcement that the republicans meet in the council chamber immediately after adjournment.

The CHAIR. The question is whether the committee shall rise, report progress, and ask leave to sit again.

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

Rising vote shows 35 ayes, 16 nays.

The CHAIR. The motion prevails.

CONVENTION IN SESSION.

Mr. MORGAN. The committee of the Whole having under consideration the majority report of the committee on Suffrage and Elections, ask leave to rise, report progress, and ask leave to sit again.

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

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

Recess.

AFTERNOON SESSION.

The convention was called to order by the president at two o'clock p. m.

LEAVES OF ABSENCE.

Mr. BATTEN. I ask leave of absence after today until next Monday.

The CHAIR. Is there any objection? If not, it will be so ordered.

Mr. SINNOTT. I ask for leave of absence after this afternoon until Monday on account of sickness in my family.

The CHAIR. If there are no objections it will be so ordered.

Mr. KINPORT. Mr. President, I ask leave of absence for one day, Saturday, for the same reason given by Mr. Batten.

The CHAIR. If there is no objection it will be granted. The regular order of business is the consideration of the article on suffrage and elections, which was being considered this forenoon.

Mr. MORGAN. I would like very much to have Mr. Ainslie's amendment to the rules adopted at this time.

Mr. REID. I rise to a point of order. Today was specially set apart under the resolution, and that the business was to be proceeded with until finished.

Mr. MORGAN. I thought there would be no objection.

The CHAIR. Does the gentleman from Nez Perce object?

Mr. REID. I object.

The CHAIR. The chair rules that point of order is well taken, and it is out of order.

Mr. REID. When we get through with this, the understanding is we are to go into convention and consider this proposition we now have up, and complete it.

The CHAIR. The unfinished business is to go into

the committee of the Whole and consider the matter we had up for discussion this morning. Will the gentleman from Bingham take the chair, Mr. McConnell not being present?

COMMITTEE OF THE WHOLE IN SESSION.

Mr. MORGAN in the Chair.

The CHAIR. The committee had under consideration at the time it rose this forenoon the substitute offered by the gentleman from Alturas, Mr. Beatty. What is the pleasure of the convention?

A MEMBER. I would like to hear the substitute read.

MOTION FOR CALL OF THE HOUSE.

Mr. CLAGGETT. Mr. Chairman, the convention is not full and I think this subject should be considered in full convention, and I therefore move a call of the house. The chairman of the committee himself is absent at this time.

Mr. MAYHEW. A call of the house in the committee of the Whole? I think you better go back into the convention.

Mr. CLAGGETT. Then I will move that the committee now rise for the purpose of moving a call of the house. (Seconded).

The question was put to a vote and a division called for. On rising vote there were 27 for and 9 against the motion and the motion was carried.

THE CONVENTION IN SESSION.

Mr. CLAGGETT in the Chair.

Mr. MORGAN. Mr. President, the committee of the Whole has risen for the purpose of considering a call of the house.

The CHAIR. I do not know that a motion to that effect is necessary, the committee having so risen. Is there any objection?

Mr. MORGAN. I move, Mr. President, that we have a call of the house.

Mr. HEYBURN. I second the motion.

Mr. REID. I would like to ask the gentleman what is the object of this.

Mr. MAYHEW. I move that it be dispensed with.

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

Mr. REID. I move to lay that motion on the table.

Mr. MAYHEW. I second the motion.

The CHAIR. It is moved and seconded that a call of the house be now made. To that an amendment or a substitute is made that that motion be laid on the table. Those in favor of laying the motion on the table will say aye.

The vote was taken and a division called for. On a rising vote there were 22 for and 24 opposed.

Mr. REID. I demand the ayes and nays.

Mr. MAYHEW. I second the motion.

The CHAIR. There seems to be some misunderstanding about this. The convention is not full and in making the motion that the committee rise to get out of it is simply to obtain a full convention.

Mr. REID. I do not understand what the chair means by a full convention.

The CHAIR. I mean to say that the chairman of the committee who reported this and other members of the committee are not here present.

Mr. REID. I will state then, that I am willing for one, and I think the agreement can be had by conference, that we can proceed with something else until the chairman of the committee gets here. It was understood, and we will carry out our agreement in good faith, that we will put no obstacle in the way of the consideration of this matter. And representing the persons we speak for we will not, and I say now, I think I will be backed by every democrat here, that we will wait until the gentleman comes in. Any agreement we make will be adhered to.

The CHAIR. So will any agreement made by the republicans.

Mr. REID. I hope it will be. We will wait and see that.

The CHAIR. The ayes and nays are demanded on the question to lay on the table.

Mr. MAYHEW. I move the convention now adjourn.

The motion was seconded.

The CHAIR. Out of order. Call the roll.

SECRETARY. (Calling the roll): Ainslie—

Mr. AINSLIE. I want to know what we are voting on, whether a motion to adjourn or a call of the house.

The CHAIR. The ayes and nays are demanded on the question to lay the motion for a call of the house upon the table.

Mr. AINSLIE. I vote aye.

The roll-call continued.

Mr. GRAY. Mr. President, may I ask what the vote is upon?

The CHAIR. The vote is upon the proposition to bring the gentleman from Ada into the convention. It is a yea and nay vote upon the proposition to lay upon the table a motion for a call of the convention to bring the absentees in town into the convention.

Mr. GRAY. I am here. (Laughter). Let me understand how I voted.

The SECRETARY. You did not vote at all.

Mr. GRAY. It is just a roll call?

The CHAIR. No sir. The gentleman from Ada did not vote at all upon the pending motion.

Mr. MELDER. Mr. President, I do not believe the convention understands the question.

Roll-call:

Ayes—Ainslie, Anderson, Batten, Beane, Bevan, Blake, Brigham, Chaney, Clark, Coston, Crutcher, Harris, Hogan, Jewell, King, Kinport, Mayhew, Parker, Pefley, Pierce, Poe, Reid, Steunenberg, Taylor, Vineyard, Whitton, Mr. President—27.

Nays—Allen, Armstrong, Ballentine, Campbell, Gliddon, Hampton, Harkness, Hasbrouck, Hays, Heyburn, Lewis, Maxey, Melder, Myer, Morgan, Pinkham, Robbins, Salisbury, Savidge, Sinnott, Shoup, Standrod, Underwood, Wilson—24.

The SECRETARY. There are 27 ayes and 24 nays.

The CHAIR. The motion to lay on the table is carried.

Mr. REID. I move that the convention resolve itself into the committee of the Whole for the purpose of considering the order of the day. (Carried).

COMMITTEE OF THE WHOLE IN SESSION.

ARTICLE VI., SECTION 4.

Mr. McCONNELL in the Chair.

Mr. BEATTY. I believe when the committee adjourned this morning the question before it was the consideration of the substitute for Section 4 of the article which we are considering. I desire to say, Mr. Chairman, upon this matter, that that substitute was presented by me, not as my individual action, but in accordance with the directions of the committee, and if I may be indulged a few words here, I desire to say further that there had been some action taken upon this matter by parties outside of the convention with some who are in the convention. I was not present at the meeting, but I understood that the substitute was substantially recommended with the view of meeting the objections which our democratic friends had to Section 4. My understanding has been that they objected to Section 4 entirely, and that this was intended to meet their objections. I will state that I offered this substitute, as I before stated, I believe, after consultation; I did not offer it as my own; in fact my belief has been from the start that the report of the committee as made should have been acquiesced in without any change whatever. That was my own judgment, but I am not by myself, where one man's judgment can always prevail, but have had to consult with others and be guided somewhat by the counsel and advice of others. I will state further that I acquiesced in what I supposed was the desire of the committee as well as others outside—I mean the majority of the committee as well as others outside of that committee. That was one motive. The other motive I had was this, I supposed it

met with the approval of this whole convention, and that this difficult question might be settled without controversy and without any feeling, and I, for one, had the most urgent desire that some agreement upon this question should go forth to the people of the territory, with the information and statement that we have agreed, and that no dissension should ever be raised among the citizens of Idaho on this question. The committee's action, however, has been condemned, and while I acted in the capacity I did this morning, simply as a member of the majority of that committee, I will state now that I have instructions to withdraw that substitute, and in obedience to the instructions I now ask to withdraw the substitute which I offered this morning for Section 4.

Mr. AINSLIE. I believe I accepted the substitute, and I cannot give my consent to the withdrawal of it. It was so fairly made and the committee for three weeks prolonged the consideration of this important question of suffrage in order to arrive at some conclusion upon which we could all agree, by way of taking out the Mormon vote and disfranchising these people without arguing and counseling together for another three weeks. The committee came to this conclusion, that the substitute offered by the gentleman this morning was satisfactory, or should be satisfactory to all parties. It was presented, as we supposed, by the representative of the majority of that committee in good faith, and we accepted it in good faith and approved of it. Now, if they are going back upon the proposition, and are going to turn tail upon the very proposition we accepted as a finality on this important question, it is due to this convention to know what party has acted in good faith, whether the democratic or republican. We insisted upon the minority report and could hardly have gone as far as the majority report; we were anxious that it should be adopted in order that no questions should be raised by the lawyers of the senate or house of representatives that might attract debate

in those two houses and delay the final action of congress upon our admission. But being willing to compromise and come to a conclusion that we believed satisfactory to all of us, we allowed them to draft their own substitute, without our being invited to take part, without our knowing what it was until it was presented to us this morning, and we accepted it in good faith, and propose to stand by it. That is the position of the minority of the committee and the democratic party on the floor.

The CHAIR. The position of the chair is, that if there is objection to the withdrawal of the substitute, it cannot be withdrawn; it is now the province of the committee of the Whole to reject it, and then act upon the original. The question is upon the adoption of the substitute for Section 4.

Mr. MAYHEW. I move the adoption of it.

A MEMBER. What is the substitute?

The CHAIR. It was the substitute offered by the gentleman from Alturas, which he now asks to withdraw.

Mr. MAYHEW. That is objected to, and I move the adoption of the substitute that was offered this morning.

The CHAIR. It has been already moved and seconded, and that is the question before the committee.

Mr. MAYHEW. I move as an amendment, that we adopt the substitute offered this morning.

The CHAIR. That already is before the committee. It was discussed at some length before we arose.

Mr. GRAY. Mr. Chairman, I don't think it is debatable, but it does not seem to meet with the ideas of some of the members of the committee.

Mr. AINSLIE. Say the republican members of the committee.

Mr. GRAY. Well, the republican members of the committee. But I say that Mr. Beatty has done nothing that he did not think would be approved of. I only want to say this, I do not want blame to be attached to

Judge Beatty for what he has done, for I think he has done in that matter the same perhaps as others would have done, placed in the same position, but it seems to me that the convention has a right to consider, and if he sees fit to withdraw it, he may do so. So far as I am concerned I want this convention to do what it thinks right in the matter. (Vote).

The CHAIR. The chair is in doubt.

Mr. POE. Wait a moment, it was my impression that we were to have an opportunity to discuss this.

The CHAIR. All in favor of the adoption of the substitute, will rise, stand and be counted. (Ayes 24, nays 31).

The CHAIR. Twenty-four vote in the affirmative and thirty-one in the negative. The substitute is lost. The question recurs on the adoption of the original.

Mr. AINSLIE. I move the committee arise, report progress to the convention, and ask leave to sit again. (Seconded).

The CHAIR. It is moved and seconded that the committee now rise, report progress to the convention, and ask leave to sit again. (Rising vote, ayes 21, nays 31). The motion is lost. The question now recurs upon the original motion to adopt Section 4. (Question, question). It is moved and seconded that the same be adopted.

Mr. AINSLIE. I move to strike out Section 4. (Seconded).

The CHAIR. It is moved and seconded that Section 4 be stricken out. (Rising vote). The motion is lost. The question now recurs upon the original motion.

Mr. REID. Mr. Chairman, I do not suppose that debate is cut off entirely, and I desire to submit some remarks to the convention. I desire to have the same courtesy extended to me as was extended to the gentleman from Shoshone and Alturas, that if I do not finish them in ten minutes, I may be allowed a few minutes more.

Mr. CLAGGETT. I have no doubt about that.

Mr. REID. I shall address myself not so much to the matter which is now before the convention, as I shall to reviewing the course——

The CHAIR. Does the gentleman ask the committee of the Whole to allow him to discuss another question not before the committee?

Mr. REID. I do not sir. I shall not address my remarks so much to the merits of the proposition, as I shall to some incidental questions growing out of the one now before the committee. The gentleman from Ada has remarked that he attaches no blame to the gentleman from Alturas for the course he has taken. Neither do I, Mr. Chairman. But there is involved in this question another one, whether or not under the rules and precedents that have become a part of the unwritten law commonly regulating deliberative assemblies—whether or not there should not be some blame attached to the power behind the gentleman that dictates action in this matter. I admire him for his loyalty to his party. I admire him as a partisan. But a man who considers that this should not be a public question has the contempt of all intelligent people. Sir, the minority have some rights here, and I propose at this time to show where the minority has been treated with injustice. And in doing this, I do not desire to be classed as a partisan, because some of us, although younger in years, have belonged to that conservative portion of the profession we have the honor to represent, for such a length of time that our reporters have classed us as mossbacks, that we are too conservative. I am glad to be classed with them, Mr. Chairman, and it is in that spirit today, that I rise, notwithstanding that my friend already had to throw a fire-brand to break up the arrangement that would have brought about a happy solution of the question that in my mind, endangers a peaceable conclusion of this assembly. I propose to leave the action of the majority for a moment or two in this convention on this difficulty. Way back

last winter we had an enabling act.¹ It was announced that it was not passed for us to come into the Union at that time, and it went so far as to state that we were on that condition to come into the Union. I had the honor, Mr. President, to draw the first resolutions to advocate that in a public meeting that was held in this territory asking admission into the Union and statehood, and that, too, in a portion of this territory where annexation had been promised in the form of a bill introduced by our honorable delegate in congress. After that, when I saw, in addition to others who visited the national capital, that there was a chance that we might attain statehood at once, by setting in motion the machinery which, when that machinery had attained its end, would admit us into the Union, I joined in readily and made sacrifice of my business and other sacrifices, to come here with these other honorable gentlemen, to try to formulate a constitution; and I came under that proclamation which declared to this whole state that this was to be done by us as patriots, that we were to come here as men loving Idaho. I came here, and among all the native sons or adopted sons of Idaho, I do not believe there was any man that would outvie me in giving the utmost of my powers to try to further the good of this territory, because I hold no political aspirations, but what I do here and have done, has been wholly for the benefit of this, my adopted home, in which I propose to live and die. I met the gentlemen in that spirit. I met the gentlemen of the republican party in that spirit, and I do today. Governor Stevenson proclaimed that these delegates should be elected independent of party affiliations. We all met in that spirit. When the distinguished and honorable gentleman who at that time had the reins of government—ever since he stood upon the steps of the capitol and proclaimed to the assembled multitude on his inaugural that it should be carried out,

¹—Referring to the Mitchell Bill, introduced in the senate Dec. 13, 1888, and reported by Platt with amendments Feb. 27, 1889. See Appendix.

I have met that pledge in the same spirit. When this convention met it turned out that the majority claimed the Ada county membership, although it was to be divided. But we cared nothing for that. Partisan politics was to be forgotten; we were to remember Idaho and our country; and when we met in this preliminary caucus and the distinguished gentleman who presides over us now, arose and claimed the pledge of the majority to be president of this convention, we thought there was to be no partisan politics; we did not care, we had not thought about that, it was Idaho and our country. We were willing to concede that; why, you may have it. And then the parties had their caucuses; we asked for the poor pitiful boon that the offices be divided amongst us. We were told, you may have the vice-president—but in all the history of all the conventions anywhere in the whole civilized world, who ever heard of a constitutional convention having a vice-president? Give us the secretary. No; every office was taken, and that, too, by the majority. And so when you came to state your committees. We have 25 committees; in that number we just have two chairmanships of important committees; the one on the legislative department, and the committee on salaries.

Mr. GRAY. Mr. Ainslie has the executive; he is the chairman.

Mr. REID. I made a mistake, I meant the executive. The legislative department is Morgan. So it is two out of the twenty-five.

Mr. GRAY. You have the chairmanship of the committee on Corporations.

Mr. REID. Well, that is another in which they gave us a chairmanship; say three, with the committee on Corporations.

The CHAIR. I call the gentleman to order. We have met to discuss this article, not to make political speeches.

Mr. REID. I am not making a political speech, but the gentleman who started to withdraw the substitute

and has now moved that the substitute be not adopted, is not to blame, and I am reviewing the treatment that we have received, if the gentlemen want to hear me.

A VOICE. That is all right; go on.

Mr. REID. Oh, I propose being not quite so long as the gentleman the other day who addressed us for seventy minutes, and I never moved to interrupt the honorable gentleman, for he represented, as I do, however humbly, one portion of the minority. I propose that we shall be heard, by the pleasure of this convention. I say then, that when you come to this committee on Apportionment, out of eighteen men on that committee, we get seven. When you come to the Mormon question, the convention would have been successful in its labors, according to statements made, if the democratic party had not espoused the Mormon cause so effectively that they thought it would not do—no, I will not make that charge, because the gentleman begs generosity when it was held that we had adopted all their cause—but all that had to be taken back, and it was found that on this great question, the only one that threatened the great future of our noble state, the question of Mormonism, that we rise up as one man and put our foot upon it; and these men differed about this, whether or not it was a question of putting down Mormonism, but the question was whether or not we could go beyond that and leave it possible to disfranchise other classes of citizens, and those of us who claimed to be moss-backs, some of those who represent perhaps a different order of political principles, believed that it would not be wise to clothe the legislature with the right at will to kick about like a football this great right of suffrage. But we finally compromised on it. I appeal to any gentleman here—you are all better parliamentarians than I am—some of you have served in the councils of the nation, and thus served at the time I did. During the years we were in the national house of representatives, when a committee's majority agreement went through, and by the generosity of the house they made an

agreement with the other side, I challenge the president to say that that agreement has ever been broken. The chairman of this committee submitted it to us; we held a caucus on it; there were a great many things we objected to; the conservative element in that caucus, although they thought there were things in it we did not think were exactly right, wanted to show to this territory, to show to the good people that we would go far beyond even our conscientious scruples to put down Mormonism, to show to this territory that we stood side by side with the republicans. Now when you ask us to make an agreement again, with whom shall we make it? The chairman of your committee, who had the right to do it? No doubt the chairman of this committee had the right to do it. Say what you will and do what you will, the fact is that I brought it before the caucus. I waited this morning until our caucus could act upon it, and we came in here in good faith ready to accept it. Then the gentleman from Shoshone, the president of this convention, gets up and after we had settled this matter and buried it, then this question is called forth again, and a call of the house is ordered to get in members, and it might even be said that it would have answered a further purpose to say that the lack of any quorum should be added upon our minutes. Now we are here outwardly for Idaho. On behalf of the minority of this committee, I am calling attention to this injustice. I want you gentlemen to know that we see it and know it. We have talked it over before we came here, in good faith. We accepted the proclamation of Governor Stevenson. We accepted the proclamation of Governor Shoup. We accepted this agreement made by the executive, that it should be adhered to, and we came here, although it was in the minority, expecting to be treated with fairness and justice. I do not charge my friend that he has an undoubted control of his party and his caucus, but I do say that this agreement was broken. I know it will be voted down. I know the sentiment that prevails here,

but I want it to go forth to the territory of Idaho and to the people of Idaho, who are invited to control its destinies, that the democratic party here went farther—went as far as the republican party and beyond them, and agreed to the very thing they offered; and then they come in under party dictation and the compulsion of the party caucus, which has prevailed through the influence, the pressure——

Mr. BEATTY. Mr. President——

Mr. REID. Mr. Chairman, that puts our case before the people. I am not a partisan in this matter; I am willing to go on——

Mr. BEATTY. Mr. Chairman——

Mr. REID. I cannot yield; you may have the floor afterwards.

Mr. BEATTY. I do not wish it; I simply wish to make a suggestion that the committee in conceding the point they did this morning did not hold any caucus of the republican members, but that the other members afterwards held a caucus. Our members did not have the matter placed before them. If you think the committee is to be censured, I, as chairman, was in charge.

Mr. REID. Mr. President, it would at least have been courteous for the gentleman to have told us that this morning, and not come in here under the farce of a gag and majority dictation to put it through in that way.

I have stated the cause of the minority side of this house, but, Sir, as I have suggested before, we do not come here to legislate for the democratic party. If we had done that perhaps the obligation of this body would have been different; but we came here to render our assistance in good faith upon the proclamation of our two governors, democratic and republican, and the agreement of our two committees to that amendment, and yet you have forced us to submit to this injustice and unfairness. But from you we will appeal to the people, and on that platform we will stand or fall. (Applause from the democrats).

Mr. STANDROD. Mr. Chairman, I cannot see any reason why there should be so much feeling manifested over this question. We all seem agreed upon the one proposition, both democrats and republicans. It was very well understood in both caucuses of this convention that we should adopt something in this constitution, if possible, that would effectually preclude the Mormons from exercising the right of franchise in this state, and all were agreed upon it. It is true there have been attempts made for two or three weeks to compromise, so that it should go forth before the country, or to the country, that both parties alike, democrats and republicans, had agreed that no member of this Mormon organization should ever exercise the right of franchise or be permitted to vote in this state. Now, in these reports coming from the different caucuses, there was nothing of a contest even reported in either of them. An agreement has been attempted to be made time and time again. This morning it was understood that an agreement had been entered into; that there would be a substitute offered for Section 4, and that by consent of all. Mr. Chairman, as I understand it, that agreement was had only among a few members of these caucuses, or perhaps among the different members of the committee. In looking over Section 4, there were a great number of us who came here to this convention, Mr. Chairman, with this one question in view, which we place above all other questions that have or will come before this convention. We believed and we believe yet that the substitute offered will not cover the ground—it is not sufficient. I do not believe that in either caucus the feeling has been unanimous, either of the majority upon the majority report or of the minority upon the minority report. The substitute which has been offered here, while it provides that the legislature may enact or prescribe additional qualifications, and may prescribe laws and rules for the enforcement of the provisions of this section, it is well known by lawyers who have scrutinized it, that it has

been passed upon by the courts of this country, and whenever we put in that clause it limits us absolutely to this organization that practices or teaches bigamy or polygamy, and to the members thereof.

The great trouble in this convention, Mr. Chairman, is that there are too many members who have never lived in the community where this church predominates. They do not understand the question. Last fall in the courts of Bingham county, all the leading and highest men in charge of the Mormon church were brought to that court as witnesses, and stood and swore upon oath that there did not any longer exist in the church the doctrine or practice of living in polygamy or bigamy. They said that. The men who know the workings, the machinery, the inconsistencies, the incongruities of this despotic organization, actually trembled in their boots last fall, because they believed the conference that was then assembled would have a revelation doing away with polygamy and bigamy, and yet we would have the same despotic theocracy that we all understand who have lived among it, notwithstanding they did not practice polygamy and bigamy. Mr. Chairman, the least evil existing in that church today is this practice. It is a theocracy that is used for the purpose of securing political influence in the country where it exists, and no one knows it better than the members of this convention that come here from the southern portion of the territory; we have seen it. Now then, I believe there are many members here that have not been governed by any caucus action. I know for one I have not. I propose to vote for something that will leave this question absolutely in the hands of the legislature. I would have had, if I had had my choice—I would have had it prescribed in a section of this article that the privilege of voting or holding office in this state shall be a franchise granted or withheld at the will of the legislature, giving them absolute power to meet all of these questions that may arise, to meet all of the emergencies or exigencies which may arise among this theocracy we talk

of. I have been in favor of that; we have lived under an organic act that provides very nearly the same thing for the last twenty-five years,¹ and there has never been any attempt to disfranchise any one else except the people of this class that we all say are a body of citizens who should be restricted from exercising the right to vote and hold office. In addition to the clause as it stands in the majority report, we will insert at the latter end that the legislature may prescribe qualifications, limitations, and conditions for the right of suffrage additional to those prescribed in this article, but shall never annul any of the provisions in this article contained. If it should happen that the church—and their being a party to the schemes that are known to have been used last fall in the southern portion of this territory, proves that fact—if they should by revelation renounce polygamy and bigamy and seem to abandon these practices that now exist in the church, then delegate to the legislature the power to provide against anything of that character. As I understand it, the body of this convention has about settled this question for the present, and determined to leave it open for the legislatures of the territory to settle it in the future.

I desire to say in reference to the substitute that was offered this morning, that under the decision in Nevada in the case of Whitney vs. Findley,² and I have not heard any gentleman here deny the soundness of the law laid down in that decision—that under that decision we would be prohibited from enacting any law destructive of or as directed against any order or organization that aided, practiced, or advocated these crimes. There is no question about that in my opinion. The constitution of Nevada, after prescribing the qualifications of electors and after providing for the registration thereof, went on and had the additional clause, in language similar to this submitted by this substitute,

¹—Sec. 5, Act of March, 1863 (organic act of the territory).

²—20 Nevada, 198.

which is as follows: "And the legislature shall have power to prescribe by law any other or further rules or oaths as may be deemed necessary as a test of electoral qualifications."¹ Counsel contended that even under that section they had a right to adopt—the legislature had a right to adopt the statute that they had done, prohibiting members of the Mormon church from voting, but the supreme court says, you have gone on and prescribed qualifications for electors, although you have a clause in your constitution which says therein: "And the legislature shall have power to prescribe by law any other or further rules or oaths as may be deemed necessary as a test of electoral qualifications." Those rules and those oaths must be confined to that section, to the qualifications prescribed by the constitution.

The great trouble has been all the way along, we feared that we would place something in this constitution that would restrict the legislature from meeting this question when it might come up in the future. I claim it is not a party question, but as to what the gentleman said in regard to offices in this convention, I believe myself and have said to the republicans, that the democrats have not been treated fairly in a good many respects. At the same time this is a question that transcends all political feeling, or at least it should do so, and it is not a matter of politics merely. I am not a candidate for office, and I don't know that I ever shall be, but this is a question that comes directly to the fireside and to the home of every man in my section of the country. When I was home a while ago, an acquaintance of mine asked me: "What are you going to do in your constitution with regard to the Mormon question? For God's sake put something in that will settle it, or leave it open as it has been. I would rather live in a territory all the rest of my days than live to see those people vote and obtain political power again."

¹—Art. 2, Sec. 6, Const. Nev. 1864.

These men are in good faith, they are patriots. It is not politics that influences them, as the vote of the last election will show. That is the only question that actuates those people in voting for their political sides in that section of the country. I do not suppose they are to be allowed to take credit for any resolution or any section that may be adopted in this constitution. The democrats here have time and time again declared themselves unanimously opposed to the Mormons holding office or voting in this territory. The only difference among us is the question of detail; it is a question to be handled wisely; we are all agreed upon it. I, for one, fear that the substitute offered this morning would restrict the legislative power in the future to legislate upon this question. I have deemed it my duty to vote against the minority report and against the substitute. The bill now does not meet my views. I wanted it to start off with the declaration that this privilege of franchise and holding office shall be granted or withheld at the will of the legislature, and then go on and say that it shall never be conferred upon certain individuals. I think that is the practical way. That leaves no doubt about it. And the majority report wisely adopts the same features, except they wait until they have prescribed qualifications for electors, and then go on to say that the legislature shall not annul, but that it may do so and so. It seems to me but right and much preferable that we should start out with that clause, and all this talk about constitutional restrictions, Mr. Chairman,—I want to ask the gentlemen who have preached on this evil, day in and day out, about the great rights and the great safeguards we have had under the constitution of the United States—I ask them what aid has the constitution of the United States ever given in regard to the franchise? What restriction did it ever place upon the states? I ask the gentleman to show it to me. They have left this question absolutely to the states until it came down to the Fifteenth Amendment. They had already adopted the Thirteenth Amendment

and the Fourteenth Amendment, but it was not until the Fifteenth Amendment was adopted that they ever conferred the privilege of the franchise upon the negro race. If the framers of the constitution of the United States could grant or could leave this question to the states and to the people, why cannot we as a convention leave this question to the legislatures of this state? Furthermore, when you talk—when you say it is necessary for us to adopt in strong terms some section against the Mormon church, or against the Mormon people, if you do not do it when you come to congress they will say, we are afraid to leave this question to you; we won't accept your constitution, we can go back to them and say, we have had control of this matter; you gave it to us under the organic act; we have had control of it a number of years, and we have absolutely ousted these people from this privilege, and we can do it in the future. We have got confidence in ourselves; we can control the matter. You leave the franchise to us and we will see that it is properly exercised and in a spirit of justice and right and against Mormonism. I think that really the best thing we can do would be to have a clause as short as possible, just giving this right to the legislature, this power to the legislature to enact such laws regarding the franchise as they may deem proper, and then leave it. I do not fear any danger, and all this talk about Odd Fellows, Masons and Catholics being disfranchised—all that is absurd. I do not think anything of the kind would ever be attempted, and if it should be, it would meet with unanimous opposition from the people of the country, But while there are a great many of my democratic friends who say that I am a democrat, I want to say that so far as these matters are concerned, I do not care for the support of any political party in this territory. I do not care for any office, and I do not know that I shall ever be a candidate for any office. But when a question of this kind comes directly home to me and to every man and to every fireside, and is a question which predominates in the

section of the country from which I come, I deem it my duty, regardless of any political power or political prestige I may gain by any action of mine—that it is my duty to vote on this question in the way that I think will meet it, and in the way that is best adapted to take care of this matter in the future, and I shall do so. All this talk about caucuses and about political relations, I don't think it applies to this question at all. We are all agreed upon it and I don't see any necessity of charging it against any one political party or another. The only question among us is the detail, and as I deem and regard the majority report here better designed to meet this question than the one submitted in the substitute this morning, and in the absence of anything else, I shall vote for it, whether I vote for it as a democrat or as a republican; I shall vote for it only because I believe it is necessary, as a citizen and as a representative of the community from which I come. (Applause).

Mr. POE. Mr. Chairman, all I desire in this matter is that whatever proceeding we have taken upon this question as a party, I desire that we stand fair and square before the world. I do not desire any false impression to go abroad as to our position. If I understand the English language, and I think I do to a certain extent, or at least to a reasonable extent, the democratic party in the matter of the substitute that was offered here has gone as far as the republicans have to suppress absolutely and forever this opprobrious practice of the Mormons. We have adopted every word that the republicans have engrafted in what is known as the majority report. We have acquiesced in every word contained therein. We stand by their side, shoulder to shoulder, to do all that we can to blot that damnable institution from the fair face of our commonwealth. And we are ready as a party today to go to the full extent that the law will permit us to do, and without any change to adopt in the exact language of the republicans or of the majority report as to what shall be engrafted in this constitution, and to join the other gentlemen who drew

the bill. I have never kicked football, and I cannot use the expressions and terms the gentleman employed to make his point, but I am positive as to the mistake of conceding the right of suffrage to those people who have adopted these practices. Now the trouble is not as between the democratic party and the republican party as to whether they shall crush that institution or not; they stand as a unit upon that proposition. They are ready to go as far as any of the minority will permit them to accomplish that end. But a difficulty has arisen in the power which is proposed to be delegated to the legislature. In the original article, and the one which the republican party here now support, it reads as follows: The only difference now, I say, that distinctly exists between the republican party and the democratic party, is as to the power which is to be delegated to the legislature. The majority report reads as follows: "The legislature may prescribe qualifications, limitations and conditions for the right of suffrage, additional to those prescribed in this article, but shall never annul any of the provisions in this article." The minority report and the substitute introduced by the chairman of the committee on Suffrage and one of the leading republicans of his party, by the consent and acquiescence of the majority of his party, who came in here in good faith and offered that which he believed to be sufficient, amply sufficient to do all that we had any right to do to crush the institution of Mormonism, reads as follows: "The legislature may prescribe qualifications and conditions for the right of suffrage concerning the classes of persons heretofore mentioned in the immediately preceding section." Now, in this immediately preceding section, Mr. Chairman, we both, republicans and democrats, have agreed upon the language that is contained in that section. Now they say that the legislature may have power to prescribe such additional conditions to those prescribed in this article. This substitute says that they may prescribe any additional conditions as to the class we are attempting to reach, to-wit., this theocracy

that is called Mormonism. That is what we are here to legislate against. The democrats have acquiesced in this provision here which gives the legislature the power to engraft in the law any additional conditions which will go to reach the class that we are legislating against, but what does this majority report and the section which they propose to adopt now? It not only gives authority to prescribe such additional conditions as to that class, but, Mr. Chairman, it gives the legislature power to disfranchise you or me, or any citizen within the limits of the territory of Idaho. If we are going to give that power to the legislature, then I think that we are going beyond the right that we should concede to any legislature. We give them the right and it cannot be denied—that any member of a secret organization, any member of the Methodist, Baptist or Catholic church, or any other similar organization that may be created under the laws of Idaho—that if the legislature sees fit, they can disfranchise any of these classes. I will never by a word of mine, either aid or render support to a measure which gives this inherent authority and power to any legislative body. Why, the gentlemen may say, that there is no danger of the legislature doing such a thing as that. What do we find now in the United States? What do we find in the constitution of California? We find a large and growing popular doubt all over the Pacific slope in regard to the position of the American party, which takes the position that none but Americans should be allowed to vote in this country. American born citizens should be allowed the right to vote in this country. Suppose that doctrine should prevail in the territory of Idaho. Then I appeal to every foreign born man within the hearing of my voice, if this legislature would not have the power and right under the conditions of that article, that section, to disfranchise them. Shall we give them that right? They have, further, the right to say that any man or set of men who unite themselves for the purpose of protecting themselves against capital, all

these unions—any man belonging to a union, a carpenter's union, or a laborers' union, or a mechanics' union, or bakers' union, or any other kind of a union—they have a right to say that any man who belongs to a union of this kind shall not exercise the right of franchise. We are not here, Mr. Chairman, for the purpose of defending Mormonism, but we are here to stand hand in hand and shoulder to shoulder upon that question, and we are here for the purpose of defending every American citizen of every creed and nation, it matters not from whence he comes so long as he lives up to the laws of our country and is a law-abiding citizen. It is this kind of men that we are here to protect. We are here to protect the laboring man against the capitalist. It is well considered that they are the bone and sinew of this country; they are, indeed, the inheritors of the earth and merit a nobler consideration than they have yet been given, and it is for the protection of these men and every other man in the free exercise of his liberty and his conscience, and we here as the democratic party, being the party which passes as having been the friend of the poor man against the capitalist, against wealth, we are here to defend that class of men, and not for the purpose of defending Mormonism or anything of that kind. We say this, that it would be a shame, and in my opinion the congress of the United States never would admit a constitution which would authorize the legislature to thus enact without any cause or any reason, laws which would sweep away the rights of American citizens, whether they are foreign-born or native-born. (Applause).

Mr. LEWIS. Mr. Chairman, I am not in the habit of speaking before a convention of this kind, but inasmuch as the matter of Mormonism has come up, I beg to say that I have lived amongst that people for thirty-three years and I know a little about them. And the talk has been here about disfranchising the different sects and parties that exist. I have no fear of

that, and yet, mark you, I abhor the name of Mormon as it is called. Some call me a Josephite Mormon, yet I am not afraid that I shall be disfranchised; I am willing to trust my cause in the hands of good and honest men. Now I have lived in the territory so many years that I know also the trickery that is practiced by the Brighamite church, and as a sample of that, you will find that last fall when they tapped at the door of congress for admission as a state, they went further than the laws of congress. For adultery they are willing to punish them for six years; for polygamy they are willing to punish them for three years. Now let me ask this convention, is there a word of truth in that? Their actions since that has proved there is no truth in it. Therefore, if they can twist and turn, I think that this clause of the 4th section, is highly necessary to meet it and close up every avenue and every twist that the Mormon church can make to it. Now, I want to state here, so that the convention can understand, I am neither a democrat nor a republican. I have lived, as I said, for 33 years among that people, and if you recollect the time—James Buchanan was in the chair at that time—he sent an army here into the Wasatch mountains—Johnson's army; I was then in the territory. A prophet got up, and he prophesied there that the bride—which was equal then to Utah—had been yoked up to Old Buck—that was Buchanan—and that Old Buck had slept and the bride was free and the yoke remained upon Old Buck, and it would remain there. (Laughter and applause). And not only that, but he prophesied in the name of the Lord that Buchanan would die in the chair, and that his flesh would fall from his bones, and when Buchanan came out fresh and good and alive from the chair, then Mr. Kimball, Brigham Young's prophet, got up and made the excuse. Says he, if a man stands up and prophesies, and hits it as near as I have, every time, he is a good prophet. (Laughter and applause). And so the matter passed.

Now I say that every avenue must be closed against

these tricky Mormons. If they should profess to put off polygamy and acknowledge the laws of the country as the supreme laws of their church, and the state—I do not believe, mark you, that they are so ready to become Josephites all at once, because if they leave all these practices, that is, the blot denominated polygamy and other things that are connected with the laws of their church, and give support to the laws of the state, then they become natural Josephites, and without being admitted into the church, and when they become honest Josephites I hope that you will never legislate against them, for I give you my word that they will be true then to their duty, even until they be admitted into the church. For we want law-abiding citizens, and if I transgress the laws of my country, I am willing to be punished by that law, and so every Mormon ought to do the same. Now I hope and trust to live so long amongst the Mormon people, trying to advocate these doctrines, mark you, but now this convention is fighting it—I have fought it for three and twenty years, and I tell you they are just as far from conversion today as the day that he began to teach it. The Mormon people seem to me something like an Irishman—a red-headed Irishman, who landed once at Castle Garden; it happened to be on the day of election, and the republicans surrounded him the moment Pat got off, and the democrats came around too; look here, says they, come now, let's vote; no, says Pat, I won't vote for either of you. Well, they were all urging him; bejabbers, says he, I won't vote at all, but at last they urged him so hard, says he, is there any government in this country? Why, yes; well then, I vote against the government. (Laughter). So with the Mormon people, whether a democrat is in the chair through the demand of the people or not, they are against the government, and will remain so until they have the supreme power, if they vote at all, of the country in the end. Every time that we don't see fit to fight upon this matter we give way to them, because it has come that the constitution of the

United States has too long been so corrupted by the democrats and republicans, that the Mormon church will step forth and save that constitution. Then, gentlemen, you and us will be kicked out together and the Mormons will have control of the country. (Applause).

Mr. PARKER. This constitution, Mr. President, is to go before the people, and when this constitution goes before the people, the gentlemen of the majority will be the first to appeal to the great minority of democratic voters in this territory wherever this constitution is proposed. Mr. President, the minority on this floor have made great concessions. I am not alone in the democratic party represented on this floor, in supposing that we have already gone further than circumstances would justify in sacrificing those principles of justice and civil liberty which should underlie our constitution. And I will remind the gentleman again that we are not through with the people on this issue, that unless concessions are made to us the majority are liable to put themselves into the predicament that we who represent the democratic party of the territory on this floor can appeal to our citizens and tell them that we cannot get justice done on the floor of this convention, and all the political improvements, Mr. President which are involved in this constitution are liable to be overthrown in the ordeal which they must pass with the voters at the ballot box.

Mr. BEATTY. Mr. Chairman, I will not delay the committee but a very few minutes. I desire to say that from the start there have been but two questions between the minority and majority of this committee. One important question was as to including in this report the disfranchisement of those who are members of the church. There is that difference in the reports now. But this morning our democratic friends have conceded that by voting for the majority report. The other important difference was as to leaving any power whatever to the legislature. Their report provided that the legislature may make provisions only to carry out the provision of this section, but the majority have extended the

principle. We have constantly insisted that the legislature should have absolute power to control this matter in the future, but not to annul anything we incorporate in this organic law. Now, Mr. Chairman, that has been my position constantly from the start, and I will say here very frankly that I regret that an older man who I thought knew more than I did, should influence me to change from that position. I was influenced in this by the fact that one of the most distinguished men in the United States drafted this very clause which I inserted in that substitute this morning.

Mr. REID. Mr. Burrows?

Mr. BEATTY. I have it here in his own hand.

Mr. REID. Who was it?

Mr. BEATTY. I cannot name him; I have no right to, but I have here upon this majority report in the hand of one of the most distinguished men in these United States, the very amendment which I substituted. I, for one, yielded to his superior judgment, as I claim it, as well as the judgment of many other members of this convention.

Mr. REID. Was it Mr. Burrows?

Mr. BEATTY. I will not answer that question.

Mr. MAYHEW. Was it a republican?

Mr. BEATTY. I will not answer that question. It would not be right, Mr. Chairman, to publish either what the honorable gentleman has done or what the honorable gentleman has advised, who is not a member of this convention, but I will say that I was guided in my action by what I admit to be the superior wisdom and judgment of my superiors. At the same time, I, for one, regret that I yielded for a moment; in fact, I regret that I ever yielded from the original report which has been prepared by the majority of this committee. The report has been changed considerably from the time it was first prepared, but it was in deference to the opinions of others, and I wanted to get something on this important question that would meet the wishes of all. As is often the case when a man yields to

another opinion, to that of others, he may make a mistake. I do not, however, concede here, that even if this amendment had been adopted, it would have made a particle of difference so far as the Mormon church is concerned. I still believe that the gentleman who drafted that amendment was right in his judgment, and it never would have made any difference. But in advocating the bill to my democratic friends, I want to know why it is, what has been the reason they can give to insist upon the amendment they want engrafted in this. Now I believe you all agree with us and want every Mormon disfranchised. I want the power left for the future so the legislature can control this matter. We know they change their brand from time to time. It makes no difference what law we enact, they will change their brand; they will make some change in their organization so as to meet the laws we may enact and hence I was anxious, for one, to leave this power absolutely in the control of the legislature. Now, my friends upon the democratic side, I appeal to you here. You say we leave this to the legislature absolutely, to-wit: By Section 4 as reported by the majority report. What possible objection can you make to that, save the single objection you have urged that the legislature will then have the power to disfranchise good citizens? I admit that—I admit it. It leaves it absolutely in their power to undertake to disfranchise the members of the Methodist church by name, if they wish, or the members of the Catholic church, or the members of any organization; I admit they have that power if we leave that section there, but I ask, have you any fear that any legislature ever elected by the people of the state of Idaho will undertake to commit such an outrage as that? This is where the question comes to me, and I send it home to you and ask you to answer it.

Mr. REID. Did not the last legislature pass an *ex post facto* law?

Mr. BEATTY. My honorable friend from Shoshone

was in the legislature and can answer it better than I. I will turn it over to him.

Mr. REID. The honorable gentleman answered it the other day; he said he thought he did.

Mr. BEATTY. Well, if he were able to legislate that, and he said such a thing as that, I hope then my friend did not vote for such a law. I think my friend will answer that, and I submit the whole matter to my friend from Shoshone; I have known him to be wrong; he is generally right; he gets off once in a while, but he is generally right.

Mr. MAYHEW. Will you be kind enough to tell me when I was ever off? (Laughter).

Mr. BEATTY. I will tell him sometime in private. I dislike to expose him here in public. (Laughter). Now my friends on the democratic side, I ask you to come down to solid facts. What real danger is there if we adopt this section as proposed by the majority of the committee? You cannot really suspect nor fear that any legislature we will ever elect in Idaho, will pass a law so outrageous as to disfranchise honest and honorable citizens. Then if there is no danger of that, why not leave it as it stands? Why not all come in by unanimous vote and adopt this section as you have adopted the other? I give you great credit for joining us in that. I hope now and ask that you will all come in and join with us in this, for it certainly can impose no danger, it can do no harm even though the substitute you have insisted upon, and which you introduced—even though that were proved safe. Still this can do no honest citizen any harm; there is no danger that we will ever elect a legislature that will be so recreant to its duty as to disfranchise honest and honorable citizens. Then let us unite as one man and vote for this fourth provision here, just as it is. It will certainly make us safe. It will leave the power where it should be, and it will leave us in such a position that we can control that element which ought to be controlled, and which we

are so anxious to keep out of the suffrage. ("Question, question").

Mr. GRAY. Mr. Chairman, I am somewhat amused—considerably, I might say, by the argument of the gentleman from Nez Perce, who seems to me to make but one point, and that is that the chairman of the committee had not done as agreed. That is not an answer to anything that is before the committee. Is this section before us now objectionable, if so, why? These democrats claim to be as much interested in putting this matter of Mormonism down as the republicans, but then they throw it at us that we are republicans and our republican committee did not seem to extend out their hands in greeting and offer to affiliate in this forenoon session. But it seems that the general opinion is not that of republicans alone; my distinguished friend from Oneida here, tells us why. They know more about it than those other gentlemen, down there in Oneida. There was no argument in the first gentleman's talk,—that is, the one from Nez Perce, at all, only that we do not keep our word as a party. But why don't they want to keep out this Mormon vote and Mormon element? Why all this contention? What is the matter with this section? Is there anything wrong with it? We give the power to the legislature; is there anything wrong in that? Then why does he say that we must turn around, and say that because the republicans have not kept their word, this section will not do, when we stand here not as republicans, but we stand here as members of this convention, to do what we think is right? And supposing even that we had done as he says, I will not be bound by that committee or any other committee. And the other gentleman that says that, from Nez Perce too—which it seems to come from Nez Perce largely, this objection; probably if they understood the constitution as does my friend Standrod from Oneida, they would know differently and would act differently. Now in the name of God, I would ask what we are here for but to do what is best for the territory;

that is, if that section is opposed, if there are any reasons, I ask, that these Mormons shall not have power, why is that section opposed by this minority? I ask it, and I would like to have it answered—why do they oppose it? Is there any reason for it? If it is to get an advantage, if it is to do something that we cannot understand, that they may slide it around and get something into the constitution that will give them the advantage in the future, then they are not as honest as we are. I say that some of the strongest men probably in this house that are opposed to the Mormon practices, are democrats. I am with them. I have had some experience myself in relation to them. I tell you, Mr. Chairman, we cannot get our foot on them too solid, we have got to press it down and keep it there, and when this people undertakes in any manner to excuse any act of theirs, when they are doing what they ought not to do—and that is the very thing I want put in the constitution—I shall not vote for a constitution without there is something in relation to the Mormon question put in it. It has been thrown in our face day after day and week after week, that if we did put anything in, congress would not adopt it. What did we see here the other day and on this rostrum? These men that take that position saying that we must put it in in the suavest language. Now don't let us be deceived by anything of this kind, and don't let us be led astray because a member of the committee has made a mistake, and I will excuse him for all of it, because he was not the party to blame, because he was induced to do it and thought that it met with the approbation perhaps of his party—but it does not seem to do so. But that is not the question; the question is, is there anything objectionable about that section? Mr. Reid never said one single word against that, but the idea was that Beatty had lied, or somebody else had lied about it, or something of that kind, or somebody decided to do something they did not carry out. (Laughter). That was all there was about it. I came pretty near putting

on my hat. Now another thing he says—that they will shut out the Methodists and Baptists, etc. I say, if they get obnoxious, shut them out; if they get as bad as the Mormons, shut them out. (Laughter and applause).

The CHAIR. The chair will state that we have allowed this debate to take rather a wide range.

Mr. VINEYARD. Mr. Chairman, I believe it is Section 4 that is under discussion?

The CHAIR. Yes.

Mr. VINEYARD. That is what I desired answered.

The CHAIR. I desire to state to the committee of the Whole that the chair will hereafter confine the debate to the question at issue.

Mr. VINEYARD. That is what I propose to address myself to.

Mr. TAYLOR. I move that the gentleman have as wide a range as the rest.

Mr. REID. I second the motion.

Mr. VINEYARD. I don't want any more time. Mr. Chairman, we have under consideration Section 4. My friend from Ada appeals to us and asks his democratic friends what there is objectionable about this section, which he says the gentleman from Nez Perce has failed to answer. I answer that, Mr. Chairman, and the gentlemen of the committee, by saying that we have the answer to that out of the mouth of the chairman of the committee that reported this article. He has admitted it, and it needed no admission from his lips to confirm it. That Section 4 absolutely puts in the control of the legislature, not only to disfranchise the Mormon church, but every other religion which any legislature which may hereafter convene in this state, should take it into their heads to do. Read the section. "The legislature may prescribe qualifications, limitations and conditions for the right of suffrage additional to those prescribed in this article." It is not the question of the right of suffrage being withheld from the Mormons, that is opposed in the adoption of that section; if that was the extent and the full extent to which it went, it would

meet my hearty approval and approbation, as well as that of every other member of this convention, I apprehend. But it is for us to say, is it wise, is it prudent, is it within the province of a constitutional convention that is forming the whole foundation upon which all these legislative enactments must be based, to provide that these legislators may have the door thrown open, and that every religion which may happen to fall under the ban of any future legislature may be ostracized and disfranchised, although they may be American citizens, the same as we are, either naturalized or native-born.

There is, gentlemen, I venture to say, no constitution in the United States that has any similar provision. We know that legislatures are liable to act upon bias. We know too well—at least, I who hail from Alturas county know too well—(Laughter) the whims and caprices of the average legislature of Idaho. I for one, am opposed to putting it within the power of any legislature of this state to have the right to limit the suffrage to any others than those that are described within the foregoing section. The foregoing section is directed, it is claimed by every member of this convention, at the Mormon church. They have it in there for the Mormons. That, in this day of progress, so-called, in this day of democracy, I will say, so-called, when we think of all the “isms” that can be spawned in these large cities and in the corrupt sink-holes of politics—would make it possible to disfranchise a large class of persons if such a wholesale section as that is retained in the organic law of this territory.

Mr. GRAY. Let me ask the gentleman a question. Do you claim that the legislature should not control anarchists?

Mr. VINEYARD. I would say——

Mr. GRAY. Would you be willing that it should control their actions when they went beyond their rights?

Mr. VINEYARD. I will answer the gentleman.

Mr. GRAY. Well, that is what we are leaving in the section.

Mr. VINEYARD. But it goes further than that. That is exactly what I am objecting to. For this Section 3 attempts to deny and withhold the right of suffrage from any organization, society or sect, if you please, which practices or encourages, aids or abets any acts that are inimical to the constitution of this state and the laws and constitution of the United States. I will go as far as any member in this convention to suppress it. But Section 4, which we now have under consideration, does not go to that extent, nor is it open to any such interpretation as the one we have got from the gentleman from Ada. It goes further. Now is it wise in our new state to enact in a wholesale way a clause like this? Ought not we to pause and consider the latitude which is thrown open to the legislature, that is always governed by the caprice that happens to pervade the community at that particular time and the "isms" and the "schisms" that are prevalent throughout the commonwealth at the time the legislature is in session? Ought we to allow them all this latitude and to cut off the right of suffrage from a class of people who are probably as much entitled to it as every man who desires to withhold it from them?

Now we had hoped, Mr. Chairman, that this question had been put at rest. It was hoped by every member of this convention that this vexed question of Mormonism had been buried, but like Banquo's ghost, it will not down. The several agreements that have been made by that committee have been scouted and swept aside, and we stand today where we stood at the close of our work in framing the minority report. And we have gone and are still willing to go as far as the other side in order that it shall no longer go out to the people of this territory, as it has gone heretofore for the last four years—that the democratic party of this territory was a pro-Mormon party. I have had the conviction all the time, and I have always maintained that the democratic party

of this territory was willing to go as far as any party in suppressing this twin relic of barbarism, so-called. I am willing to go as far as my friends on the other side, as far as they possibly can go, but for God's sake don't go further than a peacable man should be required to go, in adopting a provision that may disfranchise others beside the Mormon church. That is my position and that is the reason I am opposed to Section 4.

Mr. BATTEN. Mr. Chairman, I shall just trespass upon the committee a moment; we do not so much object to the matter of this section as to the manner in which it has been forced upon us. It is the method and the mode by which they seek to impose this matter upon us that we are opposed to, and not so much the matter of that section. Now the substitute offered is different from this Section 4 only in this particular; it injects into this section after the phrase 'right of suffrage,' the phrase 'so far as it affects the classes mentioned in the preceding section.' Now the only material difference between us and the only thing that has provoked this difference and the flood of eloquence with which our ears have been greeted, is simply the retention or non-retention of that clause. Now if we will stop and pause a moment, carefully and coolly, and rid ourselves of any little petty anger or feeling that we seem to have wrought ourselves up to, we can certainly come to this honest conclusion, that there is really no great difference of opinion between us as to that section, except simply to this extent: The democrats believe it is wise and expedient, that it is in keeping with good statecraft and good statesmanship, that we restrict, in terms and language unmistakable, the operation of this whole matter of suffrage to the classes mentioned and prescribed in the preceding section. We believe that there should be some terms expressly embodying that restriction. Our friends on the other side seem to have swept away that restriction entirely, leaving that section as it now reads.

Now I do not know how I can cordially accept this

section as it now reads. I am only speaking for myself; I am not speaking for my brother democrats in this body. I am very sorry indeed that we have ever used the terms republican and democrat in this body. We were invited here as to an unpartisan feast, but we discovered, I am sorry to say it—I hate to use such a harsh term—that we have been entrapped and decoyed into a regular partisan camp. Now that is harsh language to use in such an august body, but it seemed that I had to say something of the sort, in order to direct attention to the manner in which we have been flouted and outreached in this matter without having in any manner violated our faith. I do charge it upon the opposition that they have broken faith in withdrawing the substitute that meets our objection. It was nothing more than fair to grant it to us when we asked it. We were only asking what any fair-minded man would readily grant; we simply asked that this matter be limited and restricted in the constitution in such a way that but one interpretation could be put upon this matter. We all stand to a man upon the one proposition and doctrine of cinching the Mormons; that is a slang phrase, but it expresses the idea, we are all united upon that, and I hoped that we should guard these expressions, that we should not allow our passions and prejudices to run away entirely with our conclusions and our ideas of constitutional right and propriety. It has seemed that it has been a serious tension, but the controversies between us and the different conferences showed what it was; it was to get at something upon which we could all harmonize, and we did come to that in this compromise, which in this substitute is now not a compromise but an enactment—and I challenge any gentleman to contradict it, and which on this question harmonized a dozen different views, until finally at the very eleventh hour, when the curtain was about to drop upon the loosening of this serious tension between us, and leave us all a band of good fellows heartily in accord upon the main proposition,

there was interjected into our midst a firebrand—an apple of discord. And the agreement, which we had a right to expect would be honestly enforced, and carried out in the spirit in which it was framed; it was an agreement which emanated from the other side; they made the overtures, and we accepted them and clasped hands upon it. That agreement has been wantonly violated—wantonly violated, and we simply bow to the manner in which we have been treated here; not to the matter and substance of this—we do not bow to that. I for myself will vote for that section, and I ask my democratic friends to scrutinize it and see if they cannot vote for it also. It is not the substance of it, but it is the mode with which we have been treated; after having been invited here on such a grand and high moral plane of non-partisanship, having come here in that spirit and being treated in that rank bare-faced spirit of partisanship. (Applause from the democrats).

Mr. MAYHEW. Mr. Chairman.

Mr. CLAGGETT. Mr. Chairman.

The CHAIR. Mr. Claggett.

Mr. MAYHEW. I would like to offer an amendment to that section.

Mr. CLAGGETT. I will yield for that purpose.

The CHAIR. Very well; Mr. Claggett has the floor.

SECRETARY reads: Amend by inserting after the word “article” and before the word “but” in line 2 of Section 4, the following words: “to enforce the provisions of Section 3 of this Article.” (Seconded).

Mr. REID. I would like to hear it read.

Mr. MAYHEW. I move the adoption of that section as amended.

Mr. REID. I second it and ask how it will read when amended.

SECRETARY reads: “The legislature may prescribe qualifications, limitations and conditions for the right of suffrage additional to those prescribed in this article, to enforce the provisions of Section 3 of this

article, but shall never annul any of the provisions of this article contained."

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

Mr. CLAGGETT. Mr. Chairman, I have listened to this discussion with considerable interest, but am sorry it has taken the turn it has, nevertheless as it has taken this turn, I deem that it is perfectly proper, on behalf of the gentlemen of the republican faith upon the floor of this convention, that there should be a clear, full and explicit statement of their position on this and other questions which have been animadverted against by the gentleman from Nez Perce. Ever since this convention was convened intimations have been thrown out here from several gentlemen from time to time, charging the republican members of this convention with having forgotten the theory of a non-partisan convention; I deny that charge *in toto* and in detail. It cannot under the facts of the record be sustained. We must first inquire as to what is or is not a partisan convention. Does a non-partisan convention require that both political parties shall be equally represented? Certainly not, and yet that is the proposition upon which my friend from Nez Perce has been continually harping. A non-partisan convention consists of a convention in which all parties shall be represented according to their voting strength, and we are so represented upon the floor of this house. In Shoshone county, which is republican, and notwithstanding the fact that the county central committee declared for the nomination of eight delegates to this convention, and notwithstanding the fact that the two county journals had gone so far as actually to call an election when the republican convention met—and it was when they first met—they antagonized the action of the central committee and antagonized the action of the county journals, I myself leading in the proposition in that convention there at that time, so that they resolved that they would not nominate the entire delegation for this convention, and therefore

nominated four members of this convention, and recommended to the democratic convention to do the same thing, which was done. And I say here to this convention that having considered this proposition at home and both before and after reaching here, that so far as I am concerned I have attempted in good faith to carry it out all the way through. As I said before, a non-partisan convention does not imply that the minority shall have as many representatives as the majority; it implies that they shall be represented according to their strength. There is not a republican county in this entire territory that it not here represented by democrats, and which would not be represented here by democrats if they had acted in a partisan manner and had used the power which they possessed to send none but republicans here. So let us say no more about this proposition.

Now my friend from Nez Perce has done some preaching on the question of privileges; he has gone so far as to say that our democratic friends have been wrongfully treated. So far as I am concerned, I thought the same share should have been conceded to them, and you will bear in mind, Mr. Chairman, and the convention will bear in mind, that in the action which was finally taken with regard to the organization of this convention, that after the election of president and the election of vice-president, the proposition which the republicans made was that they should alternate thereafter, each one taking his choice, and the democrats refused.

Mr. REID. That was after the secretary was chosen.

Mr. CLAGGETT. I understand that after the vice-president and president were elected that there should be an alternate choice.

Mr. POE. No sir. It was after the secretary was elected.

Mr. REID. I was present when the caucus received the proposition. The proposition was to give you

the presidency, you take the secretary, then alternate down, and we took nothing. That was the proposition submitted to our caucus.

Mr. CLAGGETT. If any such proposition was submitted, it was not submitted to the entire republican caucus.

Mr. SWEET. I was a member of the committee from the republican caucus that met for the purpose of consulting with a like committee from the democratic caucus of this convention, and we understood it and it was understood by all, that the republicans being in the majority should have the presidency of the convention, and I say here, that the committee from the republican caucus then and there offered the other caucus this choice.

Mr. BEVAN. That is correct.

Mr. REID. I will ask the gentleman if he didn't offer us the vice-president?

Mr. SWEET. No sir.

Mr. REID. If the gentleman is present who made the report of our committee—they will confirm it—if our sub-committee did not ask you for the secretary, and you declined to let us have it?

Mr. SWEET. No sir. We offered you the second choice.

Mr. REID. The sub-committee offered that and we declined.

Mr. SWEET. I was not a member of the democratic caucus, and I do not know what was reported, but I know what took place in that committee room.

Mr. CLAGGETT. Mr. Chairman, so far as these matters are concerned, I do not care one way or the other. I have referred to these matters for the purpose of refuting the statement which has been made by the gentleman from Nez Perce, that the republicans saw fit to monopolize the entire organization of this convention and give them nothing. I say that cannot be sustained by the record; because they could not get what they wanted, according to their own theory, they

refused to take anything and therefore they cannot complain now.

Mr. POE. Let me ask you a question. Did you not nominate a secretary—your party?

Mr. CLAGGETT. I understand that.

Mr. POE. And we nominated a secretary.

Mr. CLAGGETT. Yes.

Mr. POE. You elected him, didn't you?

Mr. CLAGGETT. I don't know whether he was elected by a party vote or not.

Mr. POE. Well, I know.

Mr. REID. The record shows it.

Mr. SWEET. Inasmuch as you were not in that committee room, Mr. Claggett, I will say that the republican caucus did not nominate a secretary until after the democrats refused to select for that office.

Mr. CLAGGETT. That is my understanding of that. Now, Mr. Chairman, let's go a little further.

My friend from Nez Perce goes so far as to say that the committees of the convention were unfairly organized. Now then let us see whether there was any attempt on the part of ourselves or the presiding officer of this convention so to do. I find here among the important committees of this convention, that they have received one-half. It was the intention of the chairman—of the president of the convention—to give them one-half, and I stated here in addition to that, in addition to the important committees—I stated to the gentleman from Nez Perce himself, that there were four or five unimportant committees such as the committee on Assessment or on Boundaries, and that in any addition to the nine important committees I should consider the democrats on this floor, and if they desired those other committees they might have them also, and they declined to receive them. Now let us have an end to this matter, I say, and then we can come down to this other question with regard to the points raised here this morning and this afternoon, and from republicans on this floor; I will not say the republican majority, be-

cause I still adhere to the proposition that this is and has been a non-partisan convention in its organization and in its proceedings also up to date. The gentlemen do not understand the meaning of the term "non-partisan," if they undertake seriously to deny it. When it comes down to the facts, what do we find? I simply state to the democratic members upon the floor that there has been no gag-law applied in any republican caucus that has been held. I simply state that after we had caucused together and after full consultation, Section 4 as it stands today in the majority report, was agreed upon by the unanimous consent of every republican upon this floor; not agreed to by a majority and the views of that majority offered—there was no minority—but agreed to upon full consultation. And it was supposed that it was to stand so far as the republican committees were concerned, and so this morning unexpectedly to ourselves, the chairman of the committee arose and accepted at the hands of the democrats upon the floor, another proposition which was a substitute for it. That represented certain men but not representatives of the caucus. I do not question their good faith; possibly I might have done the same under similar circumstances. Nevertheless we are not bound by any such action, and will go so far as to say that if every member in the republican party upon this floor were to stand up and say this substitute should be adopted, I would no more respect their decree and authority than I would respect the decree of the Shah of Persia. I do not propose in a matter of grave public concern of this nature to be bound or to bind others by the order of any man or any party or any organization. It is a matter—as was so eloquently stated by Mr. Standrod—that goes to the very foundation of republican institutions, that goes to the very foundation of that which we are seeking to regulate, the right of the people to exercise the right of suffrage, only on condition that they shall exercise it in such manner as shall be conformable to the principles of republican gov-

ernment and not in obedience to the behests of a theocracy such as exists in the territory of Idaho, and which like the devil-fish, is spreading its arms abroad to clutch and twine around and trouble and destroy the surrounding territories and states. In considering a question of this kind, we must approach it in the spirit in which it should be approached, namely, in the spirit of passing upon the merits of the proposition itself. But to undertake to make excuses, to say there has been some little mistake in consequence of the action of one republican or two republicans or three republicans upon this floor, would seem to indicate to my mind, without a denial to the contrary, that our democratic friends had succeeded in entrapping our chairman into a well-considered scheme; but fortunately we have got out of the trap. That is what would indicate there was an inside committee upon this subject, if I did not know it was not so, and I do know it was not so.

Now let us go a little further. We have come to the proposition here, and taking up the amendment offered by my friend from Shoshone (MAYHEW) I again call the attention of the convention to the character of these Sections 3 and 4. We have here described two classes of people as they exist today; one class consisting of those who teach, advise, or practice polygamy or bigamy; another class who teach or advise that the laws of the state, passed in pursuance of the constitution of the state, are not the supreme law of the land. We intend by mentioning those classes to apply it to the Mormon church, or, as my friend from Oneida says, the Brighamite branch of the Mormon church. But we will suppose that tomorrow, under some—I do not want to say actual—under some pretended revelation from the powers on high, this church should pretend to receive a revelation to abandon bigamy and polygamy and the practice and teaching thereof, and their leaders have already gone through the barren and empty form of pretending to abandon it; just as soon as they can cover their tracks to such an extent that you cannot

prove that they had not actually abandoned it in the courts, just at that moment they cease to be one of the classes which are here disfranchised. And so it would be in the other case, that whenever they should receive a revelation to the effect that they should go out and preach in their pulpits and in the columns of their journals and in their temples that every Mormon was under obligation to obey the laws of the United States, although they might be contrary to the laws and behests of the priesthood, notwithstanding the fact that the whole thing would be nothing but a fraudulent pretense, you would not be able to prove it was nothing but a fraudulent pretense, and therefore they could no longer be included as one of the classes mentioned in Section 3. Now if you adopt Section 4 and limit the power of the legislature hereafter to pass such additional rules and regulations as apply to these classes, and those classes shall have disappeared, leaving the whole Mormon theocracy, by secret agreement and understanding among that closely-knit priesthood, with all their former powers and intentions, to carry out by fraud what they had failed to carry out in this state by open argument or open force, then I say again as I said this morning, that inside of a year you would have the Mormon priesthood intrenched so strongly in the strong places in this state that nothing but an avalanche or a revolution would ever be able to dislodge them.

Now Mr. Chairman, let me say this; it is not because we would in any way expect to ever obtain any party advantage out of this matter, but it is because the republicans have been freely, each one for himself, acting upon this question, and have come to the conclusion that this Section 4 as reported originally by the majority of the committee, should be sustained. And it is because of that that we vote and will vote as a unit and not because of any caucus action or caucus dictation. We have held our caucus as for the purpose of consultation only.

Now let me say in reply to my friend from Alturas

county, Mr. Batten, a gentleman for whom I have the greatest esteem and personal regard—I remember the time when we used to sleep together in the little cabin in the Coeur d'Alenes some four or five years ago—and let me say to him that the democrats have not been treated unfairly upon this floor, but I will say that some of the democratic members have gone continuously upon the theory, apparently, of creating suspicion between us, which was not justified by the facts. We do not propose to obtain any party advantage in this matter; but let me say to my democratic friends that if they insist upon planting themselves as a party upon the proposition as contained in this substitute, even with the amendment of the distinguished gentleman from Shoshone, so that we shall not have this in the constitution the power from time to time to change and amend this whole right of suffrage, so as to meet every contingency which might in the future present itself, they will find that the republican party will have the advantage, although we are not seeking it. I know what the people of this territory demand and what they want. I know primarily that they want the robes of statehood to wear. I know also that 99 out of every 100 of the Gentile population of this territory will say that they prefer to remain as a territory forever, rather than go into the Union as a state and leave this question, this Mormon question unsettled, so far as the organic law of this state is concerned; or to come in as a state with the hands of the legislature tied by restrictions contained in this organic law, so that they will not be able to adapt their political action in the future to meet every shift and emergency which the venality or duplicity of the theocracy of the Mormon church may bring up from time to time. That is the reason, Mr. Chairman, why we stand here as a unit, and I beg all our friends not to consider this a matter of taking sides between parties, and I hope that my friend from Alturas will vote, on his assurance today, for this report. I

know a good many of his democratic fellow members will, for they have so stated.

Mr. REID. Mr. Chairman, I do not like to measure lances with the Nestor of the northern bar, nor even with the Ajax of the bar in the south. But my friend has so often taken the part of that fish called the cuttlefish, in this convention, by muddying the water and slipping out of the proposition without letting you see which way he went, that I think I will at least attempt to make a reply to some of his propositions. He says this has been a non-partisan convention, and yet the democratic party has been called here from the whole territory to dance to the step of this republican camp meeting that has been going on—been non-partisan! Why, the gentleman says that is a non-partisan convention in which the members are represented according to voting strength, and yet you take the popular vote cast in this territory last year, the delegate to congress was elected by a plurality of 289, and the republican majority I think was only about 11 or 13—about that. But when the apportionment committee, the one that strikes really at the vital issue, by which this state may be gerrymandered, is appointed, we have seven members out of eighteen.

Mr. CLAGGETT. You are mistaken. There was just a majority of the body, of the whole 18.

Mr. REID. Take the list published in the rules and count them. There are seven democrats and the rest republicans.

Mr. GRAY. I rise to the question of order. This is not on the question at all.

Mr. REID. I have no doubt the gentleman wants to cut us off from replying.

Mr. GRAY. I do not want to cut you off.

Mr. REID. Then keep still sir. I will get through pretty soon. If these matters are beside the question I will be glad to consider that general proposition discussed by the eloquent gentleman of putting them down, if he wishes, and he has demanded—he got up here and

demanded on this question; why do you oppose it, and he would like to have an answer; and when I intimated that I would answer it, he says we are digressing from the subject. I didn't come here to represent democrats simply, but the state of Idaho, and to work for the purpose for which we came. The matter of the secretary was gone over. I do not know what took place out of the committee room, but it was reported in there that we might have the secretary and they might have the balance, and I got up and asked to resign the vice-presidency of the matter and throw it up in contempt of the way we had been treated in the other offices, and when we came here and you made the nominations of those to be elected, I finally said: I am willing to let you take the entire convention. We will be in a situation now when we set up our constitutional convention of having been voted down because we are in the minority. What further? You said we may have the committees. The honorable gentleman knows I handed him a list of the committees; there were twenty-five. Now the printed list shows 16 republican chairmen and 9 democrats. Now has there been no partisanship? Controlling the organization—controlling the committees—controlling the committee on Apportionment! Give us that committee on Apportionment and let us gerrymander this state, and just strike out your report. Sunday when the committee met it was said we may have one senator, and they have one, to each county, and we had finally made no amendment, so that the little counties as well as the larger counties should have a voice. Give us that committee and we will apportion and gerrymander this state as the state of New York, so that the republicans shall have the legislature eternally. All this looks mighty nice on the face, but you must go back to the men who are now scheming for the future control of this state. We don't sit idly by and not notice these things. I am here as a democrat, because I believe it is to the best interest of my country to carry out democratic principles; but when in the territory of

Idaho a great principle like Mormonism arises, I am not a democrat, but *a citizen of Idaho*.

Now before I take up the merits of the question, I come to my friend from Ada (MR. GRAY). The gentleman referred to Nez Perce county, and having relieved himself of his bile, I hope he feels better. But I have this to say, that when the question comes up to vote again whether the capital shall stay at Boise City ten years or twenty-five, I want the pleasure of moving to put the capital at Ada county forever, that it may stay here and build it up. And I hope the gentleman now feels that notwithstanding all his flings at Nez Perce that she at least has kindly feelings for the county of Ada and the city of Boise. (Applause). "What is the matter with us?" the gentleman says. The gentlemen have pointed out what is the matter. The gentleman says we have gone so far as to say the committee was not honest, or told a falsehood—I will not use the language in this presence which the cultured gentleman used; but I will say that we did not accuse them of dishonesty. My good friend, (MR. BEATTY) whom the distinguished gentleman (MR. CLAGGETT) says we trapped—

Mr. BEATTY. I will answer that myself. I intend to.

Mr. REID. Very well, I beg the gentleman's pardon for intruding on that part of the subject; I know he will answer it. But the gentleman says we intimated that they acted dishonestly in the matter; not at all; but we said we ought to have been treated with courtesy. I have stood upon the floor of this convention contending many times, when you wanted me off the floor I know, fighting for constitutional questions. We have had innovation after innovation put upon this constitution and the gentlemen know it, my friend from Shoshone (MR. CLAGGETT) has led in these innovations. He is a good and learned man, but he is the wildest and most radical man in his notions about these questions with whom I ever had the honor to consider questions of

this kind, I have stood here and fought for them; but we shall not only have innovations in our constitution, but we must have an innovation that has never yet been put upon the proceedings of any parliamentary body, namely, that where two sides were contending together, and the chairman of the committee that was appointed by the majority agreed with the minority, that faith was broken. The gentleman has stood, as I have, in the house of representatives, and seen the passions of men contending there in that body, he has seen the house in an uproar; but when an agreement was raised and reached, not only would the chairman, but even the member who had the bill in charge, have stood by it to the death. And that is not what has been done here. My distinguished and honorable friend (MR. BEATTY) is not responsible for it, however; but his party is responsible for it, because the gentleman from Bingham (MR. MORGAN) requested when we adjourned, that the republicans would meet for a conference; and they came back this afternoon and withdrew the substitute and returned to the original section. Therefore I say they are responsible for it; they have not treated us courteously, but as my friend (MR. BATTEN) says, they wantonly violated their agreement, and that without notice.

Now we come to the merits of this bill. What do we object to? What's the difference, the gentleman asks, and wants an answer. You know the reason. The first bill provided that the legislature might prescribe any qualifications for voting. We said no, let us tie it up so tight, so strong, draw it so closely, that no Mormon now or hereafter who belongs to this theocracy, or practices it, or aids or abets it, can vote; as my friend Standrod suggests, five lines would have accomplished it all, but build these safeguards, and we will meet you, we will help you build a wall around this question, and we will go as far as you will go. But when you say the legislature may pass an act that Catholics, or that any man—and my distinguished friend, the chairman of the

committee admitted that that might be done—may be disfranchised, I am opposed to it. I lived in a state where the legislature had that power, and we had but three ballot boxes given us, and 4,200 voters, who drove 25 miles, men of the Caucasian race with as blue and gentle blood as my friend from Shoshone, and then our votes were taken by that law and counted in another state. The legislature was clothed with that power; and your statute books today contain an *ex post facto* law passed by the legislature, and any lawyer will confirm my statement. That is the reason I do not want them to have this power; they will assert it. Here you have on the south of you, gentlemen, you who represent the laboring men, this great Union Pacific railroad; on the north you have the Northern Pacific, which is reaching out like an octopus with its arms, taking in your country. It has already got the farmers by the throat. How long will it take to control the legislatures? and hasn't it been intimated that it even has made its power felt in this convention? Can't it easily control the legislature? What then? If they want to bring in Chinese labor to compete with you, sir, they can get the legislature to pass a little qualification by which they can do it. If you belong to labor unions that are opposed to Chinese, or any great question, they can do it; and when you vote for this provision, you tell the laboring men that you have clothed them with that power when you had the right to prevent it. No, sir, these are powers inherent in the people. I have been taught to part with no power the people ought to have and keep, and give it to the legislature that has to be elected in this way. And I will tell the gentlemen my authority—these distinguished gentlemen who addressed you yesterday, I served with them in the 48th and 49th congress, and had the pleasure of supporting the Edmunds-Tucker bill which today keeps down the Mormons. Governor Stewart who addressed you, with Mr. Tucker, drew that bill. Mr. Tucker explained that to me personally, and told me it was not the old force bill,

and I voted for it. Yesterday I took this bill to Mr. Stewart and asked him about that word "member" you have in this section, in view of that case lately decided in Chicago.¹ He said he thought it ought to be left out, because it made the membership an overt act; but, says I, Governor, if we leave it in will it pass muster? Our republican friends are so stuck on this thing. I want to get by congress; I don't care what you put in on the Mormon question if it will pass congress. He said: "It will endanger it some, but I think it will get by." This morning when the gentlemen said they objected to that word "membership" and called attention to its unconstitutionality declared by the courts, we yielded that point in order to have harmony and pass this section. What further? I then submitted to Mr. Burrows the question about this very one we are engaged on. He said: "I would prefer the language (and I think Mr. Burrows drew that very substitute you offered) that we had in the 13th, 14th and 15th amendments that the United States congress used: 'Congress shall have power to enforce this measure by appropriate legislation.'" That confines it; but I don't care anything about that; I want to limit this right of suffrage to crush out the Mormons, bind them down as close as you please; but when you do that, don't arm this legislature that may be elected by corporations, by wealth, or any ism that springs up and sweeps the country, with a power to crush the liberties of the people, so that at the same time you crush the Mormons you crush the people. Under this provision you can prescribe educational qualifications. My friend says the legislature may proscribe Methodists, Baptists, red-headed men, black-headed men, in fact, anybody, under that provision—anybody in fact. The Constitution of the United States does not inhibit. You are going to arm the legislature with this to do what? To down the Mormons. Why, gentlemen will admit this

¹—*Spies v. People*, 122 Ill. 1.

covers it, and if the distinguished gentleman who drafted your substitute, and who has to pass upon it in congress, said that was right, and presented it to us, and we thought it was right, and we accepted it, why not stand by it? It is a great constitutional principle we stand here for, not to arm this legislature with this power, and the gentlemen by their sneers and allusions cannot drive us from the great fact we ought always to have in view, the great principle of suffrage, when we are building and laying the foundations of a great government. That is what actuates me. I care nothing about the party advantage. There is the power you are going to appeal to, and when you go to the Catholics of this territory, when you go to the union men and the Masons and others, and tell them you have armed the legislature with the power to strike them down, then you will find objections raised to your constitution; and when we go there next winter—as I intend to go, and lobby with those seventy-five men from the south that I served with there—and ask them to let us into this Union, I want to go so that I can say to them, “Here is our constitution, according to the Constitution of the United States.” We haven’t any right to go off on a tangent of that sort in our constitution; but as Mr. Cox told Mr. Heyburn, “Make your constitution a good old-fashioned, sensible constitution, according to the regulations and rules prescribed in the constitution of the United States, knock for admission, and you may come in.” But when you load it down with these things you cannot please the people, but if you do pass it, no cry of Mormonism, or anything else, will make those men sworn to support that constitution pass you into the Union under such restrictions as that. That is my reason. I have done as much to suppress Mormonism as any other man on this floor; I voted for the law which protects you now; I voted for the law that gave you the right to pass that test oath. But when we stand up here and down Mormons, I don’t propose to down Americans. (Tremendous applause).

Mr. BEATTY. Mr. Chairman, as a member of this convention, as at all other times, I have tried to be careful not to reflect upon the opinions, or to cast any reflections upon any individual, nor do I attempt to insinuate by any means that any other gentleman may be weak in mind, so weak as to be entrapped into any folly. I regret that my friend from Shoshone, whom I most highly esteem, whom I deem to be my superior in eloquence, in ability, in everything that goes to make up a distinguished man, should so far have forgotten himself as to at least leave the impression upon this convention—I cannot exactly state his words—that I had been entrapped by these wily democrats into a submission of that substitute this morning.

Mr. REID. The language was “entrapped our chairman into a scheme.”

Mr. CLAGGETT. I do not propose to be misrepresented in this matter.

Mr. REID. Was not that your language?

Mr. CLAGGETT. I said if I did not know better, as I do know, that the conduct of the gentlemen on the other side would indicate that they had entrapped us into a scheme, and we had got out of it; and I mean to correct any such insinuation.

Mr. BEATTY. I was going to ask for the words, but Mr. Chairman, I do not suppose my friend intended to reflect upon me, though the words as I heard them left upon me the impression, and I think they would leave upon the minds of this convention the impression that I had been entrapped. Now, Mr. Chairman, I am not here to boast of my legal acumen or wisdom. I admit my weakness in all things, but sir, I was not entrapped, nor was it a scheme of the democrats to entrap anybody that I know of. Allow me now to state how this thing occurred. A number of gentlemen met at a room in the Overland hotel to discuss this matter, and I was chairman of that committee, and I should have been invited there and consulted; but a number of gentlemen met there, some of the members

of the committee, and they discussed this matter. Among that number were these gentlemen and a number of visiting gentlemen here. While they were together there they agreed upon this matter, and that is how the matter was reported to me. (Prolonged applause).

Without my knowledge the very words which I have incorporated this morning in that substitute were written out in that meeting; and there was a prominent republican there, and I do not want any of them to dare to go back on what they did there and try to shift the burden upon my shoulders. (Tremendous applause). I may be a weak man, but no man dares take a position, and then when he finds that he has made a mistake, undertake to put the burden upon my shoulders. (Applause). I am never, Sir, in any position I have ever been in my life, afraid to assert my opinions. I am never afraid to say what I have done, I never ask to go back on what I have done, unless when I find I have made a mistake, and then I honestly confess it and change my course. Now, Sir, I say that what was embodied in that substitute this morning was arranged in a room in the Overland hotel, and by some of the most prominent republicans in this territory. Not only that, but some members of this committee were in that room, and they endorsed what was done there. (Applause). I do not know, Sir, why they met there without inviting the chairman of this committee to meet with them. I, Sir, have a right to say something as to what course shall be taken in this matter when I am appointed upon a committee, and I do not propose, for one, Mr. Chairman, to be ignored. I may be very small, and may be very weak; but if I am appointed upon a committee as chairman, I know my rights, and no man shall crowd me down. I am not made of that kind of metal. Now, Sir, that little substitute was agreed upon in that little caucus in that meeting. That matter was reported to me, and believing that I was carrying out the wish of republicans, and of prominent

republicans, I prepared that substitute in accordance with the agreement arrived at in that meeting. But even then, Sir, I did not undertake to place the matter upon my own responsibility; I consulted the other members of the committee, and all save one, Mr. Salisbury, heartily agreed to it. Mr. Salisbury did not absolutely object to it, but he thought we had better stand by the report of the committee, and he has all the time, and he, for one, has been right. I only regret that I did yield to the wishes of other members, and did not agree with my friend Mr. Salisbury and stand upon our report as we made it, and submit to no outside dictation.

Now then, this is not a matter that comes from the democrats; I tell you, Sir, it is a matter prepared by republicans being submitted to democrats. The democrats were insisting upon the provisions of their minority report, and that I objected to, and all the time objected, and I am glad that many democrats objected to it; but, Sir, this substitute in substance was prepared by republicans and through me was presented to the democrats for acceptance. That is the way of it; it was not my substitute; it was not the substitute of the democrats. They were insisting upon their original proposition, and we, through influential republicans, prepared this substitute and submitted it to them. Now, there has been all the time, from the very beginning of this, an evident effort to try to place the responsibility upon the chairman of this committee. I defy any man here to attempt to place upon my shoulders any responsibility that does not belong there. I am able at all times, in debate or otherwise, to defend my honor and my position; (Applause) and no man shall attempt to reflect upon me, no difference where he comes from or who he is.

I want this convention to understand these facts exactly as they exist. I don't want it to go out from here that the chairman, or my able friend Mr. Heyburn, or other members of this committee were entrapped or

that we have been deceived. I want the facts known as they are, that this was our proposition to the democrats and not their proposition to us. (Applause). And, Sir, moreover, that proposition came from those who are high in the republican camp, higher than myself a great deal. I am not aiming to misrepresent anything that has been said here. I did not understand exactly the language of my friend from Shoshone, but it leaves upon my mind the impression which I have referred to, and I simply want that impression corrected. I don't want that impression to go out, and if we republicans, any of us, have made a mistake, that each man bear upon his shoulders the burden that properly belongs to him. But I say this was not a proposition that came from the democrats; it is our proposition to them. (Applause). I don't propose to shirk anything, I don't propose to deny anything; I don't propose to try to put upon my democratic friends what does not belong to them, and I don't propose to assume what does not belong to me. Let every man bear his own burdens. So far as the mistake is concerned in this matter, I still insist that the gentleman who drew that little substitute knows more law than I do; I believe he is better able to judge of the effect of legislative enactments, and I still believe, as I believed all the time, that that amendment would do no harm. If I had thought it would, notwithstanding it came from a distinguished source, I, for one, should have objected to it. I have not yet been convinced by all I have heard that that amendment would be fatal; but, Sir, I propose from this on to stand by that fourth section just as it is, without obliterating a single letter or a single dot, I don't care who proposes any other amendments; I am going to vote for the Section 4 just exactly as the majority report has made it. I don't care who proposes amendments, that is where I stand from this on.

Mr. HEYBURN. Mr. Chairman, I do not rise at this time to make any extended remarks or make a

speech upon the subject that is before this committee, but I desire to say, in justice to the chairman of this committee that he did consult with me this morning before coming into this chamber about the propriety of introducing this amendment. I desire to say further that I was present at the conference to which he refers that was attended by a number of distinguished gentlemen, members of the republican party, in which this matter was considered, and that at the time it was considered I expressed my approval of it, and that to him this morning before entering this chamber, I expressed my approval of it again; so that he came in here, as far as I am concerned, knowing that the provision met with my approval. But, Mr. Chairman——

Mr. BEATTY. I am much obliged to the member for so frankly expressing himself.

Mr. HEYBURN. But, Mr. Chairman, I exercise my judgment as to the wisdom of any measure, which is proposed before this convention at any time before a vote is taken upon that measure. When I say to the other gentlemen, who are members of my party in caucus, that I will be bound by your action in a given matter, I will be bound by it; and if I cannot give it the hearty support of my voice, I will at least give it that of my vote. But in this matter, when we came into this body after I had had the conversation to which I have referred with the chairman of the committee, I began to think about this section, I began to scrutinize it, and while the opening exercises of this body were being conducted, I had it on my desk before me and my eyes resting upon it, scanning it closely, to see whether or not there could be concealed within the provisions of that amendment anything that was dangerous, that would jeopardize the measure that we are here to protect. And it began to dawn upon me that there was danger hidden behind that amendment, and when the gentleman from Shoshone, my colleague, Mr. Claggett, suggested there was danger, then I felt that

reinforcement that one mind feels from hearing the expression of another; and as the matter came before this convention I am now convinced that there is positive danger in the substitute that was offered, and I am convinced of the wisdom of leaving a wide latitude to the legislature in this matter.

The legislatures that will control the destinies of this state will be drawn from the same body from which this august assemblage was drawn, and I trust that these gentlemen are going back again into the body of the people to reinforce that material from which those legislatures are to be drawn, and that when they are again sent here to make laws for the state, they will bring back with them the wisdom and integrity that has distinguished their deliberations in this body. We have no reason to believe otherwise. And have the gentlemen forgotten that ever since this territory was in existence, by the very terms of the organic act¹ under which it exists, this same power has been vested in the legislature, and that the people have rested safely and securely under its provisions? That there has not been an hour since the first session of the legislature in the territory of Idaho when the very power that is made to direct so much has not rested in that same legislature? Have we any reason for believing that we cannot trust them in the future as we have trusted them in the past? Does any gentleman know of an instance throughout the entire United States where a state legislature has sought to disfranchise any person because he belonged to a secret society, Masons, or Odd Fellows, or to any particular church or creed, unless there was connected with that church or creed something criminal in its character, which threatened danger to the body of the government itself? I know of no instance. All of this scare about danger to labor organizations, or to this or that organization, is all moonshine. The legislators that are coming up here are to be chosen from the very

¹—Sec. 5, Act of March 3, 1863.

people that are to be protected; the people carry the remedy within their own hands, and can administer it whenever the circumstances require. There is nothing in this proposition nor in the position taken by the republican members of this body that needs an apology. It was their divine right, sworn members of this body, to change their minds on the very eve of voting, if they saw fit; they were not pledged by anything that passed between them and the members of the opposition; further than that the chairman of the committee expressed the sentiments of the members of his party (only he unfortunately did not when he expressed only the sentiment of himself and a few other members with whom he had conferred); when he told them he believed this substitute would be acceptable to them, he told them only subject to the right of his party to control the action of this party on party measures. When you tell me this is a non-partisan convention, that there are no politics in this convention, the statement bears its own refutation on its face. We had not been in session many hours when we first convened before the honorable gentleman from Nez Perce called in a loud voice that all the democratic members of this body should meet him in caucus. Am I mistaken in that?

Mr. REID. No, Sir; but I will ask you, if you had not then determined to control the organization, when we organized to meet your aggressiveness?

Mr. HEYBURN. The gentleman is asking me if I had privately determined. As a party we had not. Personally I had so far as I was concerned. I have never at any period since my majority disclaimed or disguised the fealty I owe the party to which I belong. Whenever political principles are being discussed or supported, I am always found on the side of my political party, not because it is my party, but because I believe it is the right side, and I always expect to be there. All this talk, this nice palaver about constitutional conventions or any other political body—because this is a political body, convened here for political pur-

poses, for the purpose of forming a government—when you talk to me in this nice palaver about this body being non-political, non-partisan, I smile or let it pass by as a rule, because there is no such thing. The republican members of this body are republicans; the democratic members are democrats; and they did not come up here because it was a non-partisan body, but they came up here because they wanted to or were willing to be persuaded to come by other people. The people sent them here, and the same elements, the same source that elected this body will select your legislatures; and if this body is taken as a criterion of the judgment of the people, I don't know whether we can trust them or not (Laughter), but I am rather inclined to think we ought to be willing to, because they made a pretty good guess in selecting this body, and I am willing to trust them to select another. (“Question, question”).

The CHAIR. The question is upon the amendment of Mr. Mayhew, to insert after the word “article” in Section 4 the following words, “to enforce the provisions of Section 3 of this article.”

Mr. KING. Mr. Chairman, before the vote is taken on that subject I would like to express a few sentiments regarding it. If the gentlemen are only striving for the suppression of Mormonism and crime, I can't see why they object to defining, by this clause in the constitution, the action of the legislature relative to this point. The democrats have talked this matter over in caucus, talked it individually, and we agree heartily that this is the greatest curse that can possibly afflict the country, and everything that is necessary for the legislature to do to suppress it, we are willing to agree to. There has not been a democrat I have heard speak on this question that belongs to this convention but what heartily agrees that everything that is possible to be done to suppress it we are willing to do. The amendment offered by the gentleman from Shoshone provides that the legislature shall have full power, absolute power, to provide ways and means for the enforcement of the

disabilities that are set forth in the third section. What more can you ask? If you don't want to apply your power to anything else, why do you object then to that? Under that clause as it is now proposed, I can't see any way that any court under heaven can construe it than an absolute power, given the legislature of this state, to dictate who may vote, who may hold office. It is a general grant of power, you might say, it goes on to provide that certain classes of men shall be disfranchised, that they shall not have the right to vote. It is a clear, distinct disability inflicted upon that class. It includes everything under the name of Mormonism; it includes polygamy, bigamy, the teaching of the doctrine that other laws are superior to the laws of the United States. If any organization whatever—it does not mention the word Mormon—but if any organization, any other influence, is opposed to the supremacy of the laws of the United States, it can be suppressed, and the democrats in this convention are willing to go just as far as you dare them to go to legislate the power to suppress it. What more do you want? Do you want the power still further to do, and say as this clause says, this provision provides, that you may put on other disabilities, other restrictions? Of what? Why, we give you full power, don't we? What more do you want? You can impose other disabilities, other obligations and things that may be had, as to the right of voting. It does not apply to Mormonism, it does not apply to any particular class, but it is broad and general in its whole sweep, and you can disfranchise any man there is in this country under the privileges granted by that section. And it is that I object to. I want to have the rights of a man to vote in this state clearly defined in the fundamental law of the land, beyond the possibility of cavil, but under the provisions of this section you are putting in Section 4 it would give the legislature of the state, when it becomes a state, the absolute power to disfranchise any man you see proper. You may put in any qualification; it puts

in the word "qualifications;" you can put in your laws on the statute book a particular qualification, can you not? I mean to say here that the power is unlimited. Whenever discretionary power is given to any body of men by the constitution of the United States, or by the constitution of the state, if it is discretionary power there is no court under heaven that can overrule it. That has been my understanding of the law. And here you are, giving a discretionary power, no limit to it; and if you give them that unlimited power, the supreme court, no matter whom you might disfranchise, would sustain it under that clause of the constitution which gives the legislature the unlimited power to fix the qualifications of voters. It is for that reason that I am opposed to that section. And I do not see how it is possible, believing as I do, for a man to persuade me to vote for a constitution containing such a clause as that.

Mr. MAYHEW. I have been listening now for two or three hours to political statements of members of this committee, who have expressed their views upon this question. And they have drifted, a great many of them, out into an unknown sea. They have gone so far as to claim that different sections of this country are republican and democratic. This depends upon the future. So far as the members from Shoshone are concerned, and the statement made by my distinguished colleague, Mr. Claggett, on that proposition, and the positive assertion that the gentleman makes, it is not worth while for anybody to dispute him, for no man in the world can convince him to the contrary. (Laughter).

That Shoshone county is republican I don't know. We have been considerably mixed up in that county as to politics, as to party ascendancy. Sometimes the republicans have been on top and then they have been on the bottom. The fact is, so far as our county is concerned, we have generally come pretty near to dividing the offices; unless they claim that the delegate

who ran for congress last fall received a very large vote in that county, and therefore it was republican. Allow me to say, so far as that office was concerned, about 400 democrats of that county voted for the republican delegate for congress. So far as the other offices are concerned the vote of the county was considerably divided up. It cannot be claimed, and I do not claim it to be democratic, and still I deny it being republican. Now, what has all this to do with the proposition before the convention? And what has it to do with this convention as to what section of the country we come from, what county we represent; whether we are democrats or whether we are republicans? The purpose and the object of this convention, as I understand the province of it, is to formulate, to create, as I may say, a constitution to be submitted to the sovereigns of this territory for their acceptance or their rejection. For one, as a member of this body, I say that I am in favor of submitting to the people just such a constitution as they will ratify, and one that will secure to all parties their political rights irrespective of any party.

Allow me to digress a little from the main question, in reply to my distinguished colleague, Mr. Heyburn. I accord to that distinguished gentleman the truth of his assertion when he says that he is a republican. I don't believe that if St. Peter or St. Paul or any other saint of ancient times should come into this territory (if that was possible) and ask for the votes of the republican party and announce at the same time that he was a democrat, there is any doubt that Mr. Heyburn would say "Get ye hence." (Laughter). And I approve of such political sentiments myself. I think he is a true, genuine, old-time republican. I don't think anything can be done by the democrats or his democratic friends to persuade him to leave his party, and if I could, in the future, ever do anything to strengthen that gentleman's popularity in this territory I would do so heartily, if I did not have to sanction the sentiments of republicans; but if I have to do that,

I will be as kind and generous to the gentleman and in giving him my support as I know he will be in giving me his, (Laughter), and certainly I shall never ask it. If this matter had been left to the votes of Shoshone county, I don't know whether the gentleman would have come here or not, and I doubt very much whether I could have come here. (Laughter). I am well satisfied that some of us are here who, if it had been left to votes, would have been left at home. But there is no politics in this at all. We have all agreed, I understand, and I want to clear this thing up, I don't want to hear any member from any county get up and say he did so and so, and he advised so. Now, I heard it in my county—I was not there at the time it occurred—that the democrats proposed this to the republicans, that they would have no party lines, and vote the ticket, and Mr. Heyburn was the honorable gentleman who said he would have nothing to do with it. Whether I am correct in that I don't know, but I was told so by my political party friends, democrats there, and after they got in session the republicans at Wallace agreed—mark you, they nominated eight men to go to the convention, and said if the democrats would only nominate four they would send their delegates to the constitutional convention without any election and save the county any expense, and the democrats went. Now, let us stop—let all this talk about politics go.

Now, Mr. Chairman, we all agree upon this question of Mormonism. For one, I say that you cannot make the constitution too strong for me to support, in relation to polygamy, bigamy or Mormonism in any feature. It was remarked by one gentleman here, when he was asked the question if the last legislature did not pass *ex post facto* laws, he said he did not know whether it passed any *ex post facto* law, but there was one man in this body I admit too that supported that measure, and I answered that I did repeatedly; and I am glad I did it. If that law is *ex post facto*, if it is retroactive in its character, then let the supreme court

of this state or of the United States decide it. I was willing then, as I am willing now, to do anything that I can to break down the question of Mormonism. I don't care whether it emanates from a republican or whether it emanates from a democrat. This thing of harping into democratic ears, and threatening them, Mr. Chairman, if they adhere to what they consider a principle, that it will redound against their success in the future—that is not exactly the language of my distinguished colleague from Shoshone, but it carries its import and meaning. And I want to say another thing here. Every one of these gentlemen, who is getting up on this floor is saying he is not a candidate for any office. Well, I am not—at present. (Laughter). Whether I will be in the future depends upon how I stand with my own party. I shall never be a candidate for any office unless I am running on the democratic ticket; you can remember that. (Laughter and applause). Further than that, Mr. Chairman, so far as that matter is concerned, I will venture to say that each one of these gentlemen who said he would not be a candidate and did not expect to be a candidate, in less than eighteen months, whether we remain as a territory or are admitted into the Union as a state—each one of my friends who says he is not a candidate for any office, will be edging around some political convention seeking for the nomination for something. (Laughter). Now, to say that I will never be a candidate for anything—I will not say that, because I love the dear people; and so far as I am concerned in the counties in this territory and in the territory of Montana the people have returned my affection, and when I have ever run for office I have been successful, but it has not been for any office that had any of the boodle in it. (Laughter).

Mr. BEATTY. Do you think they would trust you in that kind of an office?

Mr. MAYHEW. I trust they will not trust me; I don't believe they would trust me.

Mr. Chairman, we are all trying to arrive at one end, at one purpose. The only question of difference between us is the method; it is the language and the sentiment and the principle that is announced in this article upon suffrage and elections which we will adopt. I think the substitute offered by my distinguished friend Beatty this morning to Section 4 was a correct one. It met with the approbation of every member, I believe, with the exception of one or two, in the democratic caucus; those opposed to it thought it was going too far; but the democratic caucus agreed to adopt the amendment of the substitute handed to the democratic caucus by Mr. Beatty. What occurred with the republicans I don't know. All I know about it is their action here today. We agreed to the substitute. I supposed that the substitute emanated from the republican caucus, and from the majority of the committee upon Suffrage and Elections; but it seems that that sentiment and the principle announced in that substitute did not come from either, but it came from eminent gentlemen, as I understand the gentleman, who visited this country from abroad—members of congress. Am I correct in making that assertion, that they were present and partially dictated it?

Mr. BEATTY. I prefer not to be questioned upon that.

Mr. MAYHEW. Very well; silence always gives consent anyhow.

Mr. BEATTY. I don't think I have a right, Judge, to disclose that.

Mr. MAYHEW. Very well, let that be as it is, Mr. Chairman. After the democrats had adopted this and sanctioned it, while we were all agreed to support it—and I am not going to say now that I am not going to support this fourth section as it stands—but I have got this to say, if you had this morning, gentlemen, (I don't desire to speak of unfairness upon the part of republicans) proceeded according to all parliamentary rules in this convention or any other deliberative body, the

minority report would have been taken up first, as minority reports should always first be considered. A motion was made this morning to lay the minority report aside and take up that of the majority; and the gentlemen representing the majority report, or the chairman, and the chairman of the minority of the committee said, as we had agreed upon this subject, "we will lay aside the report of the minority and take up that of the majority." Did any one of the members of this convention upon the republican side of this chamber say there was any objection to the substitute that was reported by the chairman of the committee on Suffrage and Elections? There was not one. But when it came to that particular article, and I desire simply to repeat the language of Mr. Batten, that we were going on so swimmingly and harmoniously that I supposed the whole article would be adopted without a single dissenting voice. I was led to believe so from the action of republicans so far as I had an opportunity to be informed. All at once one of the distinguished members got up and said "Let us stop and reflect, let us stop and think whether or not there is some loophole in this substitute by which the Mormons in the future, by some revelation from on high, by their declaring that they have abandoned the doctrine of polygamy and bigamy, may by that means become voters in this territory, and eventually destroy by that means the political system of this country." That was the gentleman's idea, I suppose, upon that. Now, as I said, Mr. Chairman, it is only trying to get at the same end by different means. Let me read for a moment Article 3. I will not read it all because it consumes too much time, and I only wish to speak but a few moments. I will only read this part as to offenses: "or who is a bigamist or polygamist, or living in what is known as patriarchal, plural or celestial marriage or in violation of any law of this state or of the United States forbidding such crime, or who in any manner teaches, advises, counsels, aids, or encourages any person to enter into bigamy or

polygamy or such patriarchial, plural or celestial marriage, or to live in violation of any such law, or to commit any such crime; or who is a member of, or contributes to the support, aid or encouragement of any order, organization, association, corporation or society, which teaches, advises, counsels, or encourages or aids any person to enter into polygamy or bigamy or such patriarchial, plural or celestial marriage, or which teaches or advises that the laws of this state prescribing rules of civil conduct are not the supreme law of the state."

Now, that is all there is of this article so far as polygamy is concerned. Now, gentlemen, Article 4 provides that the legislature "may prescribe qualifications, limitations and conditions for the right of suffrage additional to those prescribed in this article, but shall never annul any of the provisions in this article contained."

What is the purpose of Section 4? I ask every lawyer of this body, and every member of this body if Section 4 in this article is not included therein for the purpose of—what? Is it not engrafted in this article for the purpose of suppressing polygamy and bigamy in this territory? Is it for the purpose of doing anything else outside of what is asserted in Section 3? I say that without the amendment I have offered, that it does give the legislature the power to pass laws to affect other religious societies and secret societies. I honestly believe, Mr. Chairman, that it is a dangerous provision to put in our constitution. But I have this to say, if my amendment should be voted down, and anything should happen to this constitution by way of its rejection in congress, or rejection by the people, it cannot be said that it was done by the aid or influence of the democratic party. Notwithstanding, Mr. Chairman, I am persuaded from what I have heard from the parties upon this floor in relation to this institution, although not knowing and not having the fortune, as my distinguished friend from Idaho county, to live

among such a class of people for so many years that he knows their habits, their conduct, their religious sentiments and political sentiments, I am willing to concede every word that is uttered in relation to Mormonism is true, and if it is, Mr. Chairman, and I believe it to be true, I as a member of this convention, disregarding my political sentiments, am willing to do anything to break down and destroy such an institution as that. I do not believe they have a right to exist in this territory. I do not believe they have a right to exist in any one of the territories of the United States. I do not believe it should be tolerated by the democrats or republicans of this territory or any other territory. Therefore, I say, Mr. Chairman, I am willing to do anything to tear down and eradicate the institution of Mormonism in this territory. But, Mr. Chairman, in doing so I ask if we are not engrafting in our constitution something else. The amendment I offer is simply to the effect that the legislature shall enforce the provision as mentioned in Section 3. I have read to you, and you all know what Section 3 is. Now I ask you, Mr. Chairman, if you put in the amendment I have offered to this section, if the power given to the legislature then is not confined simply and solely to that institution of Mormonism? I don't care in what manner they may come up in the future, neither do I care what revelations they may have from on high; nor do I care where they assemble in this territory; the power then lies in the legislature of this territory to meet them upon the threshold and tear them down. If that amendment prevails it will meet with my approbation; and if it does not then I will have to exercise my own judgment whether it is prudent or not to support the section as it stands—Section 4. But, mind you, the amendment I offer, and I appeal to every member of this convention, if it is not for the simple purpose of directing the attention of the legislature to Section 3 of the article. If Section 3 did engraft within itself "or any other religious denomination, that was antagonistic to the

institutions of the American government," then Section 4 would be proper. But Section 3 alludes to nothing at all except the Mormons, the members of the church and those who teach or encourage bigamy or polygamy, and my amendment goes to that effect, that it requires the legislature to add to the conditions and limitations in the future in order to enforce the provision in Section 3. My distinguished friend said he would answer the proposition as to my amendment, and I listened to him very attentively, but I suppose in the discussion of the main question, as he regarded it, he omitted to give any reasons why that amendment should not be adopted. As I said before, Mr. Chairman, I did not intend to take any part in this debate and I am sorry that I have. I don't believe that I could change the sentiment of a single person in this convention, but I think the amendment I have offered is the proper one to enforce the provisions of Section 3.

Mr. SWEET. Mr. Chairman, while it is very difficult to keep still under a discussion of this character, still I do not intend to enter into this debate beyond one or two little phases of it, and that for not more than two or three minutes. I desire in the first place to answer one question that was asked by my friend, Mr. Reid, of Mr. Heyburn. I desire also to set at rest once and for all by a truthful statement of the facts, as they actually occurred, the deprivation, as it is termed by our democratic friends, of the secretaryship of this convention. At the time this convention was organized or before Mr. Claggett of Shoshone was elected president of this convention, he was acting as chairman of the caucus. Before we agreed upon one single proposition, or before any arrangement or understanding had been reached, Mr. Claggett appointed a committee from our caucus to meet a like committee from the democratic caucus to agree upon the officers of this convention. I had the fortune or misfortune, as the case may be, to be selected as a member of that committee. We met the members of the democratic

committee in this room here adjoining, the speaker's room, and it was conceded that the first choice belonged to the republicans by reason of the fact that they were in the majority in this convention, and it was of course understood without argument or without debate that the republicans would choose the president of this convention. The next choice devolved upon the democracy. They said the vice-president did not amount to anything, that it was purely an honorary office and they did not like to be compelled to select it, that the only two offices that amounted to anything were that of the president and secretary. We replied to them "Very well, if you do that the next choice is the secretaryship." They then replied to us "If we do that, you will select the vice-president." We said "We would make the next selection when our turn came, and it might be we would elect the vice-president, and we might select the sergeant at arms." And they retired from the room and said they were not authorized to select there. Now, what they reported, I do not know. What they reported I do not care, but I do know that there is the fact as it occurred in that room, and if they wanted the secretaryship of this convention all they had to do was to take it. That is all there is of that proposition.

Mr. PIERCE. Let me ask you a question about that. While we were in caucus in the committee of the Whole, and before that committee was appointed, had it not been decided that the republicans should have the president and the democrats the vice-president?

Mr. SWEET. Not that I know of. I am only stating what was done in that room, and that was about what occurred, was it not?

Mr. REID. We had a caucus of the republicans and the democrats, and the gentleman who is now presiding over the committee made the suggestion of proceeding from that joint caucus, and it was there agreed that that should be the distribution, and the gentleman now in the chair remembers that was the case.

Mr. SWEET. If there were two committees con-

sidering dividing up the offices here, I know nothing about but one of them. If they had a committee appointed to grade and distribute these positions before the committees to which I refer were appointed, then all right. I don't know what they agreed to, but I do know this fact; I know what I have stated concerning what took place in that room is true.

Mr. PIERCE. Mr. Sweet, I do not understand it as you do about that. I understood the president and vice-president had been selected before we met in committee, and that then you asked the next choice.

Mr. SWEET. I did not so understand it, but I used the language repeatedly and I think Judge Morgan will bear me out, "If you think the secretaryship is so important, take it." Didn't I say that?

Mr. PIERCE. I did not so understand it.

Mr. SWEET. Well, I said it a dozen times, and that is the only caucus I know anything about.

Now, Mr. Chairman, I want to say a word or two with reference to my non-partisan friend, Judge Mayhew, because I think Judge Mayhew and myself are the only two non-partisan office-seekers in the convention. (Laughter). We are both non-partisan and we admit it; we are both a candidate for anything in sight, and we admit it—except we are not candidates for the legislature, because that bars everybody out for the senate, and we don't propose to be barred out.

Mr. MAYHEW. I never thought about that. (Laughter).

Mr. SWEET. Well, I was going to post the gentleman from Shoshone as soon as the convention adjourned.

Now, Mr. Chairman, concerning the amendment of the gentleman from Shoshone, I hope it will not prevail. I have always been opposed to an amendment of that character, unless an amendment could be proposed that absolutely and beyond all peradventure dispensed with a legal difficulty in the way of it. I was attending district court in Bingham county just before coming to this convention. I there talked with anti-Mormon lead-

ers, and men, Mr. Chairman, who inaugurated the war upon Mormonism in this territory; the men who, directing the early struggles against that institution, led the Gentiles of this territory to victory, and men who can let us know more about that institution and its peculiarities, its manner and methods of fighting, than all of us put together; and they submitted this proposition, that they would infinitely rather never see statehood at all than to see any provision in this constitution that in any manner might be termed stationary law. Because you might enact what you please, it remains but for some apostle to repair to some wilderness with his apostolic robe filled with bottles, and he will return in a few days and say "Lo, and behold, my brethren, we are in direct line with the constitution of Idaho." And Mr. Chairman, those people down there would rather have no constitution at all than to have a constitution that ties them hand and foot and leaves them at the mercy of this organization. And I say, I do not care how many words you insert in a clause, I do not care how many provisions you may insert in Section 3, so long as you have a clause in the section following that confines the legislature to Section 3, it is of no earthly value in this contest. When I came to this convention with my friend from Oneida county, Mr. Standrod, we talked it over down there, and the gentleman will bear me out in saying that in the republican caucus I combatted very earnestly for that idea, not for the reason I had any objection to the contents of Section 3, because I had none, but for the reason that in my humble judgment it amounted to absolutely nothing at all, and I thought the reliance of the people of this state must be placed upon that clause of the constitution which enables the legislature to meet this question on any phase and upon any ground at any time, and confident of the fact that it would have to meet it upon new ground before one year rolls around after the adoption of this constitution. It will be borne in mind that you adopted the test oath and the anti-Mormons re-

tired to southeastern Idaho and you congratulated each other that at last this question had been settled. Two years had not rolled around before the anti-Mormon leaders came into this legislature and asked for further legislation upon that very subject, and it became evident that the test oath was of no more value, that it was of no more power as against the Mormon organization in this territory, and affected it no more than a pea would affect a monitor fired from a squirt-gun, not a bit. Now, Sir, if that is the case, if that is our experience in the past, we want to profit by it. Gentlemen say that they have no fears that the people of Idaho territory will not take care of this question. Mr. Chairman, as a matter of fact, I have no fear upon that point, either. The gentleman who addressed us from Vermont the other day, as he looked over this convention, thought he saw in the faces of the delegates here a character of men that would not permit Idaho to be surrendered to Mormon control, and I agreed with him in that respect. And as I said before in discussing this question, if I believed it was possible that Idaho Territory could ever, under any circumstances be subject to this institution, with or without that clause in it, then, I say, as I said then, she is absolutely unworthy to even appeal to be admitted into the sisterhood of states, because it is the most despicable, disgraceful and disreputable thing with which I, in my short life, ever came in contact. But in our attempt to protect ourselves, if you stop short of giving the people absolute control and power to meet it in its newest phases, as they meet them from day to day, you will fail to do what is absolutely demanded by the situation in Idaho, not only as indicated by the past, but what we may anticipate in the future.

Now, Mr. Chairman, it is true that perhaps we may feel secure; it is perhaps true that no man will very soon desire to form any combination with Mormons. But when I discussed this question, Mr. Chairman, as was stated by the gentleman from Nez Perce, my friend Mr.

Reid, I did not discuss it as a republican or as a democrat, but, Sir, I discussed it as an American citizen. And I am going to tell you where I have seen republicans oppose it, and that is the very reason why we want this clause. Mr. President, combinations have been made in the past with this institution; and what has become of the men who made them? Why, Sir, wild flowers blossom over their little green graves like stars in the flowery dell. And so they will with anybody who should attempt to combine in the future; but mark you, it is not to be feared that democrats are going to combine; it is not to be feared that republicans are going to combine; but it is to be feared that the man who belongs to either party, who has no character and no conscience, may make that combination. It is a well known fact that in our neighboring territory of Wyoming they vote the republican ticket; that in Utah territory they vote the democratic ticket; that in Arizona they vote the democratic ticket, and in Colorado they vote the republican ticket. How are you going to deal with men of that character? There is but one way to deal with them, and that is to make it impossible for that organization to enter into any sort of negotiation with one party or make up any combination whatever.

Mr. PEFLEY. I am tired of sitting and thought I would get up awhile. I have been listening a long time to a great deal of eloquence. I have many times wished I was a great orator, and never more perhaps than on this occasion, from the fact that this is the time at which I think the very essence of the privilege of American citizens is endangered in this territory. I will read from the Fathers a few maxims in regard to this matter indicative of their jealous care of the right of election by the people: "No republican government can be permanent in which the people are denied a direct voice in the election of their representatives."

"Universal suffrage and equality of all men before the law."

“No religious test as a qualification for holding office, the right of citizenship, nor the right to vote.”

“Taxation without representation is tyranny.”

Such are a few of the maxims, Mr. Chairman, of the Fathers and framers of the Constitution of the United States, the Declaration of Independence, and of the various states of this Union. The constitutions of nearly all the states have qualifications for voters simply on citizenship, and being twenty-one years old. Even Indians, negroes, mixed breeds, are allowed those true American prerogatives without hindrance, without question with regard to what they believe on this or that question. Then I ask, why make a distinction of the people of Idaho? Other states and territories have the same people. There appears to be no particular objection and there appears to be no trouble in Utah where they vote and hold office. Mr. Kane is the delegate in Congress, he visits the president, calls on the committees, he gets his pay from the United States, and no republican member that I have read of has made any attempt to kick him out of the halls of congress. Mr. Stewart here the other day, I think, gave the best solution in one word, solved this problem better than all the speeches I heard today, and that is, that there are not Mormons enough in these United States to affect Idaho or any part of it. But, Sir, it appears to have been reserved for Idaho's constitution to put in the first religious test in regard to the right of suffrage and holding office. Why not put in force that other despotic doctrine, which is the very same our fathers rebelled against, to-wit, Taxation without representation, a heresy against all good government, and which has been repudiated by every good citizen from the first settlement of the colonies down to the present time? Also that other more cruel, more bloody and more fiendish punishment for opinion's sake or any action? Sir, American citizenship is the highest work that can exist; I honor our principles and government. With it a man can travel the wide world over and all the time be pro-

tected by the hues of the stars and stripes. And if any court, potentate, no matter what his power is, should attempt to infringe the rights and prerogatives of an American citizen, all the powers of this government would be brought to bear, if necessary, to avenge his wrong and restore his liberty. Though it might exhaust the treasury, might decimate the army and navy of the United States, yet, if he were landed the next day after all this exhaustion of treasury and blood, in Idaho, and was a Mormon, and some of these statesmen should see him put a two-bit piece into a Mormon contribution box, he would be disfranchised and barred from holding office in Idaho. That is a proposition, gentlemen, which I do not believe anybody can deny. And I call upon every man here to defeat this measure, and if you cannot do it here, go before the people and show them their danger. Because what you empower a legislature to have by this power, would be to have the right to disfranchise every person that did not accord with their sentiments. But Mr. President, even this is not the worst proposition in this infamous code. It strikes down innocent men and women, who have never violated any law or statute in this territory, and whose faith is as firmly fixed as the martyr's ever was, and who are so situated that it would be impossible for them to renounce the faith even if they so desired. It even goes farther; it goes into the school among innocent children, it goes into the cradle of future generations and says "Because your parents were Mormons you are disfranchised forever." And these people being born in this state, and, without any fault of theirs, of Mormon parents, of course would be disfranchised under this law. But the most startling thing of all to every citizen of this territory is the granting of unheard of powers to the legislature in order to regulate the right of suffrage to suit the republican party and keep it in power forever. That is a broad clause, that every man in this convention, who cares anything about the rights of manhood should vote down. If Washington and

his compatriots assumed the right to repel these same invasions of the rights and liberties of the people, and received the plaudits and approbation of the world, I ask what has occurred since to deprive us of those liberties since achieved, and without which life itself is not worth living. (Great applause).

Political and religious persecution are supposed to have died at the termination of the revolution; but it appears that Idaho is again an exception, and that the bloody history of two hundred years ago is about to repeat itself, in sentiment at least, with all its hideousness in this state, which should be one of the most liberal, tolerant and enlightened in the American Union.

Now, these Mormons are citizens, subject to all the pains and penalties of laws and regulations, military and otherwise; pay taxes, bear arms, and are liable to the draft in case of war, but for all this they have nothing but suspicion and abuse. It may be very funny for any particular party to disfranchise those people, but I don't believe the republicans are any more scrupulous than any other party, and that they care nothing about the moral part of this business, but it is simply for spoils and honor. The very quintessence of the whole foundation of republicanism as announced in its formation was the equality of all men and universal suffrage. I challenge any republican to deny that. On that humane and just idea they succeeded. If not, why were the negroes made voters, when nine out of ten had no just conception of what the ballot meant? But now, in Idaho, this appears to be all changed, and you want the legislature to regulate the whole business as far as the right of suffrage is concerned. As for myself, I have very little confidence in legislatures, especially where a majority is made up of any one party. Under the lash they would be very likely to disfranchise any man that did not agree with the majority sentiments; on that it would be as complete in its inquisitorial powers as the holy Spanish Inquisition ever was in its palmyest state.

Let me say to every man in this house who does not expect to live by politics, who does not expect to live from office, to vote this thing down; and go before the people, if you cannot defeat it here and defeat it there. I wish to say one thing to a certain class of people here, and that is this, that I have a request to make of a certain kind of people on this floor, and that is, when you shall reach that beautiful shore and look over the jasper rampart into that dark abyss, you will bear witness in heaven that Pefley did not vote on this occasion to punish the innocent with the guilty, and that I shall have credit at least for one righteous act on the great Book.

“Question, question!”

The CHAIR. The question before the committee of the Whole is upon the adoption of the amendment offered by the senator from Shoshone.

Mr. MAYHEW. Don't call me out of my place, Mr. Chairman. (Laughter).

The CHAIR. Excuse me; the member from Shoshone. (Vote). The chair is in doubt.

A rising vote was taken; 19 for, 35 opposed.

The CHAIR. The amendment is lost.

Mr. MAYHEW. Mr. President——

The CHAIR. (Interrupting) It is moved and seconded that Section 4 be adopted.

Mr. MAYHEW. Mr. President, I have an amendment.

The CHAIR. (A vote having been taken while Mr. Mayhew was speaking) The ayes seem to have it. The section is adopted.

Mr. MAYHEW. This is the first time I have ever been in a deliberative body and was denied the right to address the chair.

The CHAIR. I did not notice.

Mr. MAYHEW. I spoke to the chairman three or four times, almost as loud as I could speak, and the chair paid no attention.

The CHAIR. I hope the member will excuse me; I did not notice him.

Mr. GRAY. Give him an opportunity now.

Mr. MAYHEW. No, Sir, I will not take it; but I do not like that kind of treatment.

The CHAIR. The secretary will read Section 5.

SECTION 5.

Section 5 was read. Moved and seconded that Section 5 be adopted. Carried.

SECTION 6.

Section 6 was read.

Mr. ARMSTRONG. I have an amendment.

Mr. BEATTY. Mr. Chairman, I move to strike out the section.

Mr. GRAY. Mr. Chairman, I move to strike the section out.

The CHAIR. Have the amendment read.

SECRETARY reads substitute for Section 6: "An absolutely secret ballot is hereby guaranteed, and it shall be the duty of the legislature to enact such laws as shall carry this section into effect." Armstrong.

Mr. GRAY. I would ask, has not the motion to strike the section out covered it?

The CHAIR. I thought I would give the gentleman an opportunity to have his substitute read. The chairman of the committee moves to strike out Section 6.

"Question, question!"

Mr. CLAGGETT. I understand there is a substitute offered for the section.

Mr. REID. You must vote on the substitute first.

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

The CHAIR. It is moved and seconded that the substitute offered by Mr. Armstrong be adopted.

"Question, question!"

(Voting in progress).

Mr. CLAGGETT. Mr. Chairman——

The CHAIR. Do you wish to speak to the question?

Mr. CLAGGETT. Well, I should remark. I rose before the question was put and addressed the chair.

The CHAIR. I will give you an opportunity.

Mr. CLAGGETT. The substitute offered by the gentleman from Logan is one worthy of the most careful consideration at the hands of this convention. Here is a proposition to provide for an absolutely secret ballot. I am ready to concede two things, that an open vote has merits and a secret ballot has merits, but our present system, which is neither secret nor open, has no merits whatever. We profess to have a secret ballot, yet leave it in the power of great combinations to control the votes of their laboring men by the hundreds of thousands. It ought not to be so, for when an American citizen goes to the polls to drop his ballot into the ballot box, nobody but himself and his God should know whom he voted for.

Mr. GRAY. How would the section read with that amendment?

Mr. CLAGGETT. The amendment is a substitute. It gets rid of Section 6 altogether and requires the legislature to pass such laws as will procure an absolutely secret ballot. Take the Australian system, for instance, or any one of those systems which have been adopted in any one of the states of the Union.

Mr. GRAY. I would be in favor of not adopting it at all, but will reject part of it.

Mr. MAYHEW. Mr. Chairman, I understand in relation to this, that ballots should be numbered as they are cast. It has but one purpose. And while I am not in favor of interfering with the ballot of any elector of this state, yet I am in favor of one thing, that in the event of a contest of election, in order to arrive at the fact of how any elector may have voted in order to ascertain the fraud, or whether he was entitled to vote, and whether that vote was a fraudulent vote, there should be some law by which that can be ascertained. The purpose of having that in the constitution, I can support that, for

the reason that it is necessary in a contest of election for officers, where it is contended that a person voted illegally, that there is no way of ascertaining the fact so far as the votes are concerned, but to ascertain how that particular person voted for a certain man. Then let the court ascertain that, and through that method—not that they should inquire and find out how everybody voted, but—allege in the complaint that A, B or C were fraudulent voters and that they voted so and so, but the only evidence would be the record itself. That would be primary evidence, and secondary evidence could not be inquired into, as to how he may have said he voted or any person said he voted. That would be secondary; in fact, it would be tertiary, too. And the object of that amendment is for that purpose, that in a case of a contest, that you may inquire as to how a man voted, and have the ballot box examined, his name, number and number of the ticket, which he puts in the box, in order to ascertain that fact. That was the object of the original, and hence I am speaking against the amendment by way of trying to retain the original text.

Mr. SWEET. I just want to say one word with reference to this matter. I hope the substitute will be adopted. I do not, in saying this, deny the fact that Judge Mayhew has given some very good reasons and sound reasons why the clause should stand as it is. The only question is whether there are better reasons why it should be stricken out and the substitute adopted. I think the reasons why it should be stricken out and the substitute adopted are better than the reasons why it should be kept; and I can state it in just one word and in just one minute. The great mass of men, who labor in this country for their daily bread, men who are working by the day and by the week for the various corporations throughout the country, ask of this convention an absolute guarantee that no man who employs them shall know how they vote. And I tell you it is an absolute right; it is simply protecting those men in

the exercise of the only great and sovereign right that should not be under any circumstances inquired into, and that should not be taken from them. Whenever you place it within the power of the employer to inquire by any means whatever, as to how his employee votes, then you injure the liberty of the employee in casting his ballot.

Mr. MAYHEW. If the gentleman will observe the section and its language he will see that it does not go to that extent. If I thought it would go to the extent he imagines, I would be in favor of striking it out or supporting the substitute. The hard working, industrious men of this country have a right to vote, and the employers and the heads of those great corporations should not have the right to inquire into how their employees vote. I say amen to that proposition. And I am in favor of a stronger election law, such as the Australian law or some other law that will take from the hands of those powerful corporations the right to dictate to their employees and the honest voter how they shall vote. I have seen it, and so has every member of this convention, from the section of the country we represent, that corporations have dictated to the voters how they shall vote, and stay at the ballot box, or dealt them out their tickets, and I am opposed to it. But that is not the question. The question is, in a contested election, to ascertain, when it comes to be proven before a legal tribunal, whether a man is entitled to his office, whether he was legally elected or not; the last resort is to ascertain how the person voted who is alleged to be a legal voter. That was the only point in it.

Mr. GRAY. I am in accord with that general right, if there is not too much of this. My early life was in New York on the Erie canal. I have seen too much of this, and I don't want to see any more of it. I don't want any system by which they can trace a man's vote. If they can, he loses his job, and I am bitterly opposed to anything, I care not if he is not a legal voter, whereby you can tell how he voted. You can tell whether he is a

voter or not. As to how he voted, I am with my friend from Shoshone; it is between him and his God. Because these votes can be investigated, you may put all the restrictions around it you want to. I have seen hundreds of Irishmen going and voting the whig ticket because they had to.

Mr. MAYHEW. Did they belong to the Tweed outfit?

Mr. GRAY. No. Tweed came after my time.

“Question, question.”

Mr. ARMSTRONG. My friend Mayhew wants a secret ballot. I cannot see for the life of me how he is going to have a secret ballot. It is a system that has been in vogue until lately in the territory of Utah. I had some practical experience of it there myself in 1872. I found it was not a secret ballot by any means; it can be known to anybody who desires to know. The object of this substitute I have introduced is simply to provide a secret ballot. The legislature may provide a secret ballot, or shall do so. And that working men may not by corporations be driven up to the polls and voted as they choose to vote them. If they don't vote that way they lose their positions; and there is many a poor man in this country who votes against the dictates of his own conscience for the simple reason that he has a family to support, and has to hold his position.

Mr. GRAY. Let me hear that substitute read again, and perhaps I will withdraw mine.

SECRETARY reads: An absolutely secret ballot is hereby guaranteed, and it shall be the duty of the legislature to enact such laws as shall carry this section into effect.

Mr. GRAY. I will withdraw my motion.

SECTION 1.

Mr. CLAGGETT. Mr. Chairman, I would suggest that that clause be added at the end of Section 1. “All elections by the people must be by ballot;” and then add “An absolutely secret ballot is hereby guaranteed,”

and if the gentleman will make his motion in that way it will save making two motions and it will come in under that head.

Mr. ARMSTRONG. I accept that suggestion.

“Question, question.”

The CHAIR. The question is upon the adoption of the substitute for Section 6 as offered by the gentleman from Logan county.

Vote taken. Carried.

Mr. CLAGGETT. I now move that it be added to the end of Section 1 as a part of the section. (Seconded. Vote and carried).

Mr. BEATTY. Mr. Chairman, I now move the adoption of the majority report as so far adopted. (Seconded).

Mr. TAYLOR. Do I understand that that strikes out Section 6?

Mr. BEATTY. Yes.

Mr. CLAGGETT. It was adopted as a substitute for Section 6, and stood as Section 6, and then by a second motion, as Section 6, it was added to the end of Section 1; so that it is all disposed of.

The CHAIR. It is moved and seconded that the majority report as amended be adopted.

The vote was taken on the question. Carried.

Mr. GRAY. I move that the committee rise, and report the article to the convention. (Seconded).

The CHAIR. It is moved and seconded that the committee rise, report progress to the convention, and ask that the convention adopt the majority report.

Vote taken. Carried.

CONVENTION IN SESSION.

Mr. CLAGGETT in the Chair.

Mr. McCONNELL. Mr. President, your committee of the Whole has had under consideration the majority report of the committee on Suffrage and Election, and beg leave to report the same back with amendments, to the convention, with the recommendation that it be adopted.

The CHAIR. Under Rule 49 the report of the committee is before the convention for further discussion or amendment, or any other disposition that it may see fit to take.

Mr. SHOUP. I move that the convention take a recess until 7:30 p. m.

Mr. HEYBURN. Mr. President, I move to amend that, that the convention convene now and proceed to consider the majority report of the committee on Suffrage and Elections and adopt the same.

Mr. AINSLIE. We would propose some amendments to that, and if you desire to keep us here until after supper, I can stand it.

Mr. MAYHEW. I move that we adjourn until 7:30 or 8:00 o'clock and then take the matter up.

Mr. CLAGGETT. I don't suppose there will be any objection to adjourning.

Mr. HEYBURN. I do not desire to press the motion. I simply desire that the convention shall consider this under Rule 52, and then take it up so that it may be ordered engrossed and put upon its final reading tomorrow morning.

Mr. REID. That is a pretty important amendment.

Mr. HEYBURN. I thought we could finish it in ten minutes.

Mr. REID. No, we cannot.

Mr. AINSLIE. I move we take a recess until 9:00 o'clock tomorrow morning. We have worked nine hours a day, and it is hard enough.

The CHAIR. It is moved and seconded that we take a recess until half past seven o'clock p. m.; to that is an amendment that we take a recess until eight o'clock p. m. and a further amendment that we adjourn until nine o'clock tomorrow morning.

Vote taken and division called for. On the rising vote on the question to adjourn until 9:00 a. m. there were 17 for and 32 opposed. The motion was lost.

The CHAIR. The question recurs now on the motion to take a recess until 8:00 o'clock p. m.

Vote taken and motion carried. Whereupon a recess was taken until 8:00 o'clock p. m.

EVENING SESSION.

The convention was called to order by the president.

EMPLOYMENT OF ENGROSSING CLERK.

Mr. WILSON. I am informed by the secretary of this convention that we are in need of an engrossing clerk, and there is a young lady who has volunteered to act in that capacity and take her chances as to her pay therefor. I therefore move that Miss Hetty Cahalan be appointed engrossing clerk of this convention for the remainder of the time, at the same pay as the assistant secretary, namely, \$5.00 per day.

Mr. MAYHEW. I want to inquire about this engrossing business. That is the most important position any one can have in the office of clerkship. I don't say it is not a position for a young lady, but I venture to say, Mr. President, that there is not one clerk in a dozen that can engross the amendments to the different sections and different articles that have been introduced and passed in this convention. It is one of the most difficult things for any clerk to do, and takes an experienced hand to do it, to have the engrossments made in the proper place and in the proper section. While I have no objections to this young lady, if she understands that line of business, I say it should require a very experienced person to undertake to perform that duty. It is no trivial matter. An engrossing clerkship is the most difficult position of any clerk in any body, much more so than enrolling clerk, more so even than that of the chief clerk. The most important thing for the chief clerk is the labor of keeping the minutes correctly, but the work of the engrossing clerk is the most difficult thing in it to be done.

Mr. WILSON. I have information that the young

lady is qualified for the position; if I did not think so I would not make the suggestion.

Mr. MAYHEW. Has she had any experience in this business?

Mr. GRAY. I think she is thoroughly competent. She understands it, and she will be under advice that is good, so that if she needs any advice she knows where to get it. (Seconded).

Mr. SWEET. I don't think it is quite right for the gentleman from Shoshone to question Mr. Wilson's knowledge upon this subject.

Mr. MAYHEW. I don't care what any gentleman thinks about that. We are devoting a great deal of time to this, and if there is any deal to be made to educate a female, I object to it, I don't care whether it is democratic, republican or Mormon. (Laughter).

The motion was then put to a vote and carried.

Mr. BEATTY. Mr. President, I move that we proceed to the consideration of the report of the committee of the Whole upon the majority report of the committee on Elections. (Seconded. Carried).

ARTICLE VI.

Mr. BEATTY. Mr. President——

Mr. CLARK. There are ladies in the house, and I respectfully ask that gentlemen do not smoke.

Mr. BEATTY. Mr. President, I believe that under the rule we are required to take up and adopt this section by section. If I am not wrong in that, I move that we proceed to read it section by section and adopt it.

SECTION 1.

SECRETARY reads Section 1: All elections by the people must be by ballot. An absolutely secret ballot is hereby guaranteed, and it shall be the duty of the legislature to enact such laws as shall carry this section into effect.

Moved and seconded that the same be adopted. Carried.

ARTICLE VI., SECTION 3
SECTION 2.

SECRETARY reads Section 2: Except as in this article otherwise provided, every male citizen of the United States, twenty-one years old, who has actually resided in the state or territory for six months, and in the county where he offers to vote, thirty days next preceding the day of election, if registered as provided by law, is a qualified elector; and until otherwise provided by the legislature, women who have the qualifications prescribed in this article, may continue to hold such school offices and vote at such school elections as provided by the laws of Idaho territory.

Moved and seconded that the same be adopted. Carried.

SECTION 3.

SECRETARY reads Section 3: No person is permitted to vote, serve as a juror, or hold any civil office, who is under guardianship, idiotic or insane, or who has at any place, been convicted of treason, felony, embezzlement of the public funds, bartering or selling his vote, or purchasing or offering to purchase the vote of another, or any infamous crime, and who has not been restored to the rights of citizenship, or who, at the time of such election, is confined in prison on conviction of a criminal offense, or who is a bigamist or polygamist, or who is living in what is known as patriarchal, plural or celestial marriage, or in violation of any law of this state, or of the United States, forbidding any such crime; or who, in any manner, teaches, advises, counsels, aids, or encourages any person to enter into bigamy, polygamy, or such patriarchal, plural or celestial marriage, or to live in violation of any such law, or to commit any such crime, or who is a member of or contributes to the support, aid or encouragement of any order, organization, association, corporation or society, which teaches, advises, counsels, encourages or aids any person to enter into bigamy, polygamy, or such patriarchal, plural or celestial mar-

riage, or which teaches or advises that the laws of this state prescribing rules of civil conduct, are not the supreme law of the state;" and then this is added: "nor shall Chinese, or persons of Mongolian descent, not born in the United States, nor Indians not taxed, who have not severed their tribal relations and adopted the habits of civilization, either vote, serve as jurors, or hold any civil office."

The CHAIR. There was an amendment in the beginning of that section which is left out.

The SECRETARY. "—or purchasing or offering to purchase."

The CHAIR. Before that; "Bartering or selling," comes in afterwards.

The SECRETARY. It was not written and sent up.

The CHAIR. "—or offering to barter or sell." "No person is permitted to vote, serve as a juror, or hold any civil office who is under guardianship, idiotic or insane, or who has at any place been convicted of treason, selling, or offering to barter or sell his vote," etc. It is moved and seconded that the section be adopted.

Mr. TAYLOR. I move to amend by inserting after the word "marriage" in line 6, the words "or unlawful cohabitation."

The CHAIR. Reduce the amendment to writing and send it up.

Mr. MORGAN. I think it is covered by the language that follows.

Mr. TAYLOR. Well, if the gentleman thinks it is covered we will let it go.

Mr. MORGAN. Mr. President, I call the attention of Mr. Taylor to the language of the section: "or is living in what is known as patriarchal, plural or celestial marriage, or in violation of any law of this state, or of the United States." If he is living in unlawful cohabitation, he is living in violation of the laws of the United States.

Mr. TAYLOR. I will withdraw my amendment.

Mr. GRAY. No, I hope he will not; I want it too.

Mr. TAYLOR. It is withdrawn.

“Question, question.”

The CHAIR. It is moved and seconded that the section as amended in the committee of the Whole shall be adopted.

Vote taken. Carried.

SECTION 4.

SECRETARY reads Section 4: The legislature may prescribe qualifications, limitations, and conditions for the right of suffrage additional to those prescribed in this article, but it shall never annul any of the provisions in this article contained.

It is moved and seconded that the same be adopted.

Mr. AINSLIE. Before that motion is put I desire to move to strike out Section 4 and substitute in lieu thereof the substitute that was offered in the committee of the Whole. (Seconded).

The CHAIR. It is moved and seconded that Section 4 be stricken out and the substitute which was offered in committee of the Whole this morning adopted in its place. The secretary will read the substitute.

SUBSTITUTE FOR SECTION 4.

SECRETARY reads: Section 4. The legislature may prescribe qualifications, limitations, and conditions for the right of suffrage concerning the classes of persons referred to in the immediately preceding section additional to those prescribed therein, but shall never annul any of the provisions in this article contained.

Mr. AINSLIE. Now, Mr. Chairman, before that question is put—I took no part in the debate prior to the adjournment this evening—but this is a very important section, an innovation upon all precedents I have ever seen established by any other constitution of any other state in the Union. I take it, Sir, that constitutions are adopted by the people for the purpose of dividing the political power of the state among the several departments of the state government, the executive, legis-

lative and judicial; and the respective powers of these three several departments of the government are always placed in the constitution. Now gentlemen tell us that it is perfectly safe to devise to the legislative power of this territory the right to say what class of people shall vote and what class of people shall not vote. I say, Sir, that that is a very unsafe theory to advance. If the legislature is such a pure and virtuous body as described by a good many advocates of the pending section, they can safely be trusted with power every two years to say who shall be electors of the state of Idaho. Why should the committee upon the legislative department of this government reported by the honorable gentleman from Bingham a few days ago, incorporate within Section 20 (19) limitations upon the legislative power in forty different instances in one section? The language in that section was adopted, I believe, by a unanimous vote of this convention; according to my recollection there was not a dissenting voice. And still when it comes to managing the interests of the people of this state; when it comes to regulating corporations, granting franchises, providing for the punishment of crimes and misdemeanors, regulating the practice of the courts of justice, granting divorces, etc., the gentlemen who have advocated this Section 4 in this elections and suffrage article say that you cannot trust the legislature with those powers. That you must in your organic law limit the power of the legislature in all these monied transactions and corporate franchises; and yet, when it comes to the most important interest of the people; when it comes to the rights and liberties of the people, as you might say; when it comes to the right of the people who pay your taxes, who pay the revenue that carries on this government, who are guilty of no crime against the law of the land, who are guilty of no crime against the constitution of your state, *then* you leave it entirely within the discretion of the legislative body,—a biennial mob, you might call them—to say every two years who shall and who shall not vote! Now, this

territory has had some wonderful experiences with these legislatures; and you know in times of excitement, like in 1855 and 1856, when the Knownothing excitement swept over the country, which was only after the hardest political fight ever made in the United States by Henry A. Wise of Virginia, squelched in the United States. I see it springing up here today. It has come up to the second and third generations, and it has also come up in the shape of anti-Masonic excitement over fifty years ago in the state of New York. Now, Sir, it was admitted by the chairman of the committee and not denied by the eloquent gentleman from Shoshone, nor by any man who addressed the convention on Section 4—it is not denied by one of them—but what under Section 4 the legislature can disfranchise, not only the people that it was directed at, but they can disfranchise Masons and Odd Fellows, members of the Catholic church, Presbyterians, Methodists, or those of any other church; and the member from Ada was honest enough to say that they ought to be controlled just the same as Mormons, if they did anything.

Now, I know of no denomination in the United States outside of Mormons that ought to be disfranchised, except Mormons themselves. That has been the hue and cry of republican orators in this territory for the last five or six years. We have met them fairly and squarely on that issue today, and I will say that we will go as far as you or anyone else in this territory to disfranchise Mormons; or any person that aids, abets, assists or encourages them in any of their practices, not only polygamy and bigamy, but who hold their laws superior to the laws of the United States.

The gentleman from Oneida said it was not only bigamy and polygamy that was to be squelched, but this shadow of theocracy that is hovering over the eastern end of Idaho Territory. I say that the provisions of this article as submitted by the majority, and which the minority agreed to, covers that whole doctrine altogether. And we will refer to lines 13 and 14 in Section

3: "to enter into bigamy, polygamy, or such patriarchal, plural or celestial marriage,"—it disfranchises all those classes; "or which teaches or advises that the laws of this state prescribing rules of civil conduct are not the supreme law of the state." Now, by the law of revelation referred to by our eminent Josephite on the other side of the house, and also by the gentleman from Oneida county, that revelations may take place some time or other, I think those fellows are in perfect line with the constitution. Well, if they ever have such revelations, or ever will have them, they must recognize that there is a power superior to the law of the state, either constitutional or legislative enactment; then they are barred out of the right of franchise or the right to hold office, by lines 13 and 14. And it not only covers that case of Mormons, but also anarchists and communists, who believe in no law whatever. And of course, people who do not believe in being bound by any law, human or divine, should be disfranchised in any state of the American Union. That goes far enough—it covers the whole subject—Mormons and anarchists. Why is it necessary to go any farther than that? As to the substitute reported by the chairman of the committee and voted down in the committee of the Whole, it refers particularly to Section 3, and authorizes the legislature to make any limitations or restrictions or rules or regulations necessary to completely disfranchise the class of persons referred to in that section. What was the object of this body on this floor of incorporating in the constitution of the state that Section 4? One of the most infamous declarations that was ever put into a constitution by any free people: "The legislature may prescribe qualifications, limitations and conditions for the right of suffrage additional to those prescribed in this article, but shall never annul any of the provisions in this article contained."

Now, that does not refer to Mormonism particularly, and yet that section stuck to them like death to a dead nigger. They stick to it, and say that the whole sup-

pression of Mormonism, polygamy and bigamy is embodied in Section 4, when it does not mention it at all. The whole thing is covered by Section 3, and the substitute offered by the chairman of the committee and agreed to by every democrat in this convention establishes the right of the legislative body of this territory to prescribe all those rules and regulations necessary to carry out the intention of the makers of this constitution, to suppress entirely and disfranchise all those Mormons and all those persons who entertain those theocratic ideas. Now, why should the constitution in one place limit the legislative power in one interest, as compared with this great question of the franchise? I believe, Sir, that the franchise should be adopted in the constitution as it is in the constitution of every state of the American Union. I say it should be established firmly, so that it could not every two years after an exciting political contest be left to the whims and caprices of a biennial mob of adventurers who seek places in the legislative assembly. I say this convention represents the people, represents both parties of this territory. They know who they want to exercise the right of suffrage; they know who they want to hold the offices of this state; they know how they want them to be elected; and they place in the legislature sufficient power to carry out the intent, and that is all. And I am opposed, Sir, to placing it in the hands of any body of men, be it a republican legislature or a democratic legislature to say every two years who shall be electors and hold office in this state.

I believe I have said all I desire to say on this section. I desired to place myself on record that I will go as far as any republican in this house. Let them draw another section that will cover this Mormon or theocratic doctrine, and as strong as they please, and use every book between the book of Genesis and Revelations, and we will accept it. But when you come to place the liberties of the remainder of the people in the same category with Mormons, I shall object, and

upon this question I call for the ayes and nays. (Applause).

Mr. PARKER. The section under consideration confers upon the legislature of the state of Idaho authority to disfranchise our fellow citizens who have committed no overt acts against the laws of our state or our government. I for one am opposed to it. I say that the doctrine asserted in this section is something that is not contemplated; something that never was transacted; something that was never contemplated in the jurisprudence of our country before. Why, Mr. President, under that section the legislature of the state of Idaho has authority to disfranchise any part of our fellow citizens who generally vote the democratic ticket, even as my friend and colleague, Mr. Ainslie, has said. You have given the legislature authority under this section to disfranchise anything or anybody. And while I have studied the test oath business, while it has been a factor in the politics of this territory, I say here today that the sole object of that test oath legislation in our legislatures has been for no other purpose than to disfranchise these people in southeastern Idaho, not because they were polygamists, not because they were Mormons, but because they voted the democratic ticket. Now, Mr. President, we were told on this floor the other day by one of the distinguished bloodhounds, who came here from Michigan—we were told by one of those bloodhounds who came down here to trail these Mormon people—that there is something worse in the Mormon church than polygamy, and so there is; and that is the theocratic doctrine of the Mormon church. But, Mr. President, look over the tenets of the doctrines of any church in the United States today and you will find the same theocratic doctrines existing. Why, Mr. President, I refer you to the Sharswood edition of Blackstone's Commentaries on English Law, and you will find there that the Romish priest of the Roman Catholic church, when he takes the oath of allegiance, he renounces all allegiance to the

temporal powers of the state, because those temporal powers conflict with his oath of allegiance to the Pope of Rome. Mr. President, we assert the same thing in the preamble to this Bill of Rights. As I told you the other day, you have incorporated in that preamble a constitutional Jehovah, and you thank that constitutional Jehovah for the blessings of freedom you enjoy, and express your gratitude to that constitutional Jehovah for those blessings. Now, I am not an atheist nor an infidel. I am a member in good standing in a Christian church; I am a communicant in the Episcopal church of the United States of America, and I will go as far as anyone to maintain those doctrines of Christianity; but I cannot stand here and put into this organic law of the proposed state of Idaho any law or any power or any doctrine, which shall confer upon a state legislature authority to disfranchise you, Mr. President, or me, or any delegate upon this floor for our religious beliefs. I did not come here, Mr. President, and I was not sent here to give away my own rights nor to give away the rights of anybody else, and I tell this convention here and now that if this clause is put in that constitution I shall go home to my constituents and tell them to vote this constitution down. I would have the gentlemen further recollect that one-half of the people of this territory are democrats, and that we do not propose to sacrifice any of the rights of civil or religious or political liberty, which have been handed down from our forefathers to ourselves.

Mr. MORGAN. Mr. President, I did not think I would take any part in the discussion that has been going on with reference to this section, and I have withheld anything I might have to say until the present time for the reason that I did not think there would be any more discussion with reference to it. But this discussion has been renewed by the gentleman from Boise, for what reason I do not know. I do not know that anything the gentleman has said will affect the

vote of this convention at all; I do not know that anything I may say will affect one vote in this convention, or will have any influence upon the gentlemen who are the members of this convention. However, I desire to say a few things in reply to the gentleman from Boise.

He says this is an innovation which is unheard of in this country. The attention of this convention has already been drawn to the fact that we have lived under precisely such a law as this for the last twenty-five years, ever since this territory was organized. We have had the absolute power to disfranchise anybody, members of the democratic party, members of the Catholic church, members of the Masonic order or any other secret societies. Has this power been abused? We have not only had this power, but there is not a territory in this Union—the Dakotas, Montana, Washington, Wyoming, New Mexico and Arizona—every territory within the boundaries of the United States government has had the same power. Have they abused it? I think not. They have intimated that the labor organizations may be disfranchised. Is there any gentleman on this floor who believes for a moment there is any truth in this assertion? Why, we have one man upon the floor of this house representing labor organizations today, and he is more honest, I undertake to say, than any man in this convention. He is a man of good sense, and he gets up and proposes some little amendment, everybody makes haste to adopt his amendment, and yet nobody is a candidate for office! Almost every man in the convention who has spoken, except Mr. Ainslie, and one or two others, I believe, has announced publicly that he is not a candidate for office, and yet, when this gentleman who represents the labor organizations of this territory announces a proposition we all make haste to adopt his proposition into this constitution. Now, this means something, gentlemen. It means simply this, that the labor organization is a power in this country. Not only is the labor organization, but

the Masonic organization is a power in this country; so is the Catholic church a power in this country. So is every church that has an organization within this territory, and no man would ever have the temerity in the legislature of the territory of Idaho to even propose that one of those organizations should be disfranchised. Mr. President, and gentlemen of the convention, it is not this that these gentlemen fear. They tell us they are as ready as the republican party to incorporate in the provisions of this constitution anything that shall prevent the Mormons from voting. Now, I give the democratic party this credit; they stand today substantially with the republican party. I give them further credit. There are democrats upon the floor of this convention who would leave the party rather than be drawn into anything that might favor the Mormon organization, and they would leave it at the drop of the hat. Why would they leave it, and where have they obtained these opinions? Simply, Mr. President, because they have lived under the shadow of this fell evil. That is the reason.

Now, the gentleman from Nez Perce says he has done as much as any man on this floor to wipe out the Mormon organization in this territory. I tell the gentleman, although I admire him very much, and think he is a very honest and honorable man, that he has not begun to learn what Mormonism is. I know this much, that if we had this gentleman down in Bingham county or in Oneida county during an election, or if we had him during a term of court, there would not be a man on this floor who would go further than he would be willing to go to wipe out this organization and prevent it from having any political power in this country. But, gentlemen, we must recollect, we cannot forget, that within the last ten months the democratic party met in convention in the city of Boise and had in its organization, in its councils nominating candidates for office in this territory, a full-fledged Mormon. And when it was suggested by a gentleman who came

from our part of the country that he should be kicked out of the convention, he was voted down, he was not listened to. Then, gentlemen, I say we may well fear that possibly somebody in the democratic party may hereafter desire to get these Mormons into their organization in order to vote for their candidates.

It has been well said that these Mormons care nothing about the democratic party. It is true. The republicans could get every vote out of the ranks of the Mormon organization inside of a week from today, if they chose to do so. It could get them pledged to cast every vote they might have in the future for the next ten years for the republican organization, if they would adopt a constitution that would permit those people to vote. That is the kind of organization this is. They make terms with anybody or everybody. When you ask these gentlemen if they like the democratic party or if they are democrats at heart, they will tell you that both parties in this country for all they care might be sent to the sulphurous shades of Sheol. They care nothing about that. All they care for is for Mormonism, for this theocracy. It has been well said that polygamy and bigamy are the least of the crimes. Gentlemen, they have been guilty of every crime in the calendar, murder, incest, arson. There is within the sound of my voice today, tonight in this hall, a man who had a son in the prime of manhood, full of the strength of youth, as good a man as has been raised in this country or any other country, who was within the last two years lured into the mountains and shot down and his carcass left to be devoured by carrion birds by this Mormon organization. For what crime? For no crime, except that his father was an anti-Mormon, and had written and had talked against the Mormon organization. Gentlemen of this convention, this is no new crime. Murders have been committed by hundreds by this organization, not only in this territory, but in the territory of Utah; and this old man who sits here, gray, and has spoken in this convention today, can tell

you of crimes that would make your blood curdle in your veins, committed by this organization, and not only committed by members of the church, but ordered to be committed by those who are in power. And the time has been, and it is scarcely past, when they would name some man to be killed, and within a week or a month he would be killed. Within the last few years men have been killed in this way. These are among the crimes committed by this church. They are the least of the crimes. The whole intent and purpose of this organization is to overthrow the government of the United States. When the North and South were engaged in a death struggle only a few years ago, Brigham Young and other prophets of that church, in their public meetings hailed the day when these brothers were warring, and said the time would come when this government would be destroyed and they would be the ruling power, and they prayed God that the day might be hastened, might come soon. They believed with the late lord in parliament, that the great American bubble had burst, and that this nation was no more, and they have taught their people that they would rule this country with a rod of iron; they would have absolute power, and not only this country, but they would rule every kingdom under the shining sun. It is this cloud, this incubus that hangs over the beautiful part of our territory, which we wish to wipe aside, to scatter its power. Why, gentlemen, do we wish to insert this clause in this section? It has been announced by Mr. Standrod and by others upon this floor, it is better that we have nothing in the constitution in regard to Mormonism, and leave the whole power in the legislature of the territory, than that we should have any rule that would bind the legislature hereafter to any rule or line of conduct. And this would bind it down. I care not how strong you make these provisions in this constitution, how iron bound they may be nor what qualifications you impose upon those men, they will bring themselves and their church within those qualifi-

cations. They care nothing for your oaths; you may make any oath you choose; you may frame it as strongly as possible, they will gather together hand in hand and at the bidding of their church they will take it. We have seen it within the last few months, within two days' time that the last election was held, hundreds of Mormons withdrew apparently from the Mormon church. Why? Simply because the law forbade a man who belonged to this organization the right of suffrage—did not allow them to vote. Even the day before the last day when they could register hundreds of those men withdrew from the Mormon church and their withdrawal or resignation was accepted by the bishop and the next day they went in and registered and came up to the polls to vote. Does any man believe those men left the Mormon church in good faith? They left it simply that they might vote for the candidate or persons whom they believed would favor their organization, and they went so far as to say they could leave the church one day and join it the next, and they can. Those men left the church by hundreds, and their resignations were accepted by the bishop. Does anybody believe they left it of their own accord? Is there a man here that believes they are not counselled by the bishops to leave it? No, they were counselled from Salt Lake; George Cannon rules this church with a rod of iron. He has a despotism more tryannical and more despotic than the despotism of the czar of Russia today. He tells one man to go, and he goeth; another to come, and he cometh. And if we adopt a constitution here that will permit these Mormons by any hook or crook to come into this territory to vote, we can be overwhelmed and voted down within six months. All they have to do, they send word to the bishops of the different wards that they want so many men to go to Idaho, to the Snake river or any other part of the country. The bishops call meetings, call for volunteers, as many as choose volunteer, and if they do not get enough from each ward in this way they send their

teachers around to this man and to that man and they tell him to go, and he picks up his little traps, gathers together his little effects and herds, loads his children into the wagon and starts for Idaho. They have the men, they have the power, they have the organization by means of which they could swamp every voter in this territory. And therefore we say, we who have lived in that part of the territory and know their methods, therefore we say that any rule we put in this constitution that makes it a cast-iron rule is utterly useless and worthless, and we want the legislature always to have the power to exclude those men from the right of suffrage under whatever form or in whatever shape they may come up to vote.

Mr. AINSLIE. I want to ask the gentleman a question. I would like to have you take that substitute and ask you as a lawyer whether that substitute does not cover the whole question.

Mr. MORGAN. I do not recollect the substitute exactly.

Mr. AINSLIE. I will ask the clerk to hand it to you, and then I will ask you as a lawyer whether that does not cover the case.

Mr. MORGAN. The substitute is this, I believe: The legislature may prescribe qualifications and conditions for the right of suffrage concerning the classes of persons referred to, in the immediately preceding section, additional to those prescribed therein, but shall not annul any of the provisions in this article contained.

Mr. AINSLIE. That is the substitute.

Mr. MORGAN. That is the substitute, I believe. I have simply this to say. They would put themselves outside of any of those classes. They would change the *name* of the Mormon church. It has been proposed to disfranchise Mormons. They would call themselves by another name, within a month or within a year. They care nothing for the name; it is the power they want.

Mr. AINSLIE. I will ask the gentleman another question, as to whether any provision in this bill by the majority or the minority uses the word Mormon or Latter Day Saints?

Mr. MORGAN. No, it does not.

Mr. AINSLIE. Then why does not the substitute cover the business when it refers to Section 3?

Mr. MORGAN. Simply because it refers to those classes named in Section 3. I say they will put themselves outside of all those classes.

Mr. AINSLIE. I want the gentleman, if he pleases, to give me a candid answer as to whether that does not cover that whole question.

Mr. MORGAN. I have endeavored to give the gentleman a candid answer, Mr. President. My answer and what I have said has been in the most candid way all the way through. I tell you, I have reason to know, and every man who lives in that part of the country has reason to know that any provision you can put in this constitution, which cannot be altered or changed, will be met by this organization. They will put themselves, I say, outside of the classes you have named there. In other words, they will have a revelation, as has been stated, against polygamy and bigamy. They will avow themselves to be obedient to the civil power of the state and of the United States. They even now do those things, and yet it is well known that in their secret organization, and in their secret councils they will defy every law that is upon the statute book that is against their interests and against their principles. Last fall, Mr. President, at the term of court at Blackfoot—and some of these gentlemen have seen those people in those courts, and any man who has seen them will get a pretty good idea of the Mormon organization—last fall when a question came up with reference to a mandamus issued by the court below the register in Bear Lake county registered the Mormons and permitted them to vote when that case was on trial in Blackfoot before Judge Berry, and they brought

in three presidents of the stake in this territory, ten or fifteen Bishops of this organization, and those men testified there in open court that they had forbidden their members to teach polygamy or bigamy anywhere in Idaho Territory, and they said there had been no organization in this country that had taught polygamy or bigamy in the last year or year and a half, and I don't know but what some of these testified that it had not been taught within two years. And therefore they said that members of this organization had the right to be registered and to vote, and they asked Judge Berry to make this decision. Every one of those men from the highest to the lowest, presidents of the stake and bishops, were asking for that, and yet were living in polygamy. They answered that they were. One of them, the old president of the stake in this territory, had six wives with whom he was living at that time. I don't say he was living with them, but he said he had six wives, and he had never put them away. Another answered that he had three wives, another that he had four, and so on to the end. And let me say, there is not a single man put in power or in position in the Mormon church unless he is a polygamist in practice. They will not permit him simply to be a polygamist in belief. And the doctrines of the Mormon church as enunciated in the book of doctrine and covenants, which is the authorized version, which is the authority by which to determine what are the doctrines of the Mormon church, is today just as it has stood for the last forty years, and it upholds and enjoins and teaches and advises polygamy and bigamy. Not only that, but it denounces to damnation and with all the eternal punishment that they believe can be inflicted upon a man or a woman, upon the woman, the first wife, if she does not consent to it. And I tell you, gentlemen of this convention, within the last two years, Mormon women, the first wives, Mormon wives, have come to the Gentiles and begged upon their knees almost that they would frame some law that would put down this terrible crime and enable them to

live as citizens of the United States from this on, and give them their freedom, their liberty. They do not dare to say anything openly, because these bishops have absolute power over them. They can ruin any man who opposes their organization, who has ever belonged to it. That is the reason. When they come into a country to colonize it, they take up the water. The water of this country is the life of the country. You all know, gentlemen, that nothing can be done with the land in this part of the country without the water. The bishop controls absolutely the water, and the man who dares to raise his voice against this organization, either privately or publicly, if it is discovered, has the water cut off; his stacks are burned, his cattle are killed upon the range, his barn is burned, and perchance his house, and he is a ruined man. For this reason they dare not vote, they dare not talk, they dare not exercise any of the rights that an American citizen may exercise in this country. At the beck and nod and command of the church they are absolute slaves. They will do this or that without regard to the consequences, without regard to the criminality of the act they are committing, if it is enjoined upon them by the bishop or by those in authority. Now, gentlemen of the convention, these are some of the reasons why we do not want any rule in this law which shall make a set of qualifications for these Mormons. We must have this left open so that further restrictions can be enacted by the legislature if we would handle these men, and I tell you that the men of this territory are capable of handling it. Men in other parts of the territory may do what they please, they may stick to their republican and democratic organizations, but I tell you in our part of the territory there is not a republican, there is not a democrat on this question. And we will send men here every time to legislate, democrats and republicans who know how to vote and who know what this question means. We sent here Mr. Taylor, he is as good a democrat as there is in this hall today, to the legis-

lature, to the council.¹ We sent here Ned Ireland from Oneida county;¹ he was born in Baltimore, born and bred a democrat, and his father and grandfather before him were democrats, and we were republicans. I with the rest put in my vote for Sam Taylor and for Ned Ireland. Why? Because we knew, notwithstanding they were democrats, they were right on the question of all questions which was near to us, and which we must have settled. We voted for Mr. Sparks, also from Oneida county,¹ another man I believe born and raised in Texas, and if the gentleman from Nez Perce was down there, although he is not a candidate for office, he would not be there six months until we would be willing to vote for him and be glad to do it because he would be as strong an anti-Mormon as there is today on this floor. And that is why, gentlemen, we desire this constitution to be left open. These are among a few of the reasons why you find democrats on this floor like Mr. Standrod, the gentleman from Oneida, who was also born in Kentucky and born like his grandfather and father before him into the democratic party—that is why he stands here and says that the caucuses have no power over him when it comes to this question. Those are the men that are made down there, and those are the men that we believe in. Mr. President, I thank you, and I thank the convention for listening to these desultory remarks.

“Question, question.”

Mr. GRAY. Mr. Chairman, just a few words. I have said about all I care to say today. But I want to say this. It seems that the only objection that my friend from Boise has is that it includes, what? It goes further than to include Mormonism. We have lived year after year as we are now. We have not been interfered with, as he says, by the biennial mob—of course, he ought to know more about it, because I don't suppose there is a man in the country who has

¹—Election of 1888.

been in the legislature as often as he has, and I think he has been in the legislature oftener than any man——

Mr. AINSLIE. (Interrupting): I was never in the legislature in Idaho but once, and if God will forgive me, I will never be in it again.

Mr. GRAY. You were in the house once and in the senate once.

Mr. AINSLIE. I was never in the house in my life.

Mr. GRAY. Well, you ought to know. He has studied this matter to quite an extent. Now, he says they will disfranchise Masons. I don't think so. I belong to a Masonic lodge, and I believe I have the honor to belong to the one my brother belongs to. I have no fears, and I say if the Methodists or the Baptists or anything else, or the anarchists go too far, I want the power of this legislature to shut them down when they get to be dangerous. I want them stopped; I don't care what they are or where they came from, or what their belief is, I want to know that there is a power in our legislature to stop it. I have confidence in the legislature. I had great confidence in him when he was in the legislature.

Mr. AINSLIE. That is the first time I ever found it out.

Mr. GRAY. And I have yet. But he says we want to bring it right down to this class. I say put in anarchists or any other obnoxious class of people that organize themselves together for the purpose of overthrowing the government; I want the power in the legislature that they can handle it. The gentleman from Idaho, he wants it accepted because it is shutting off the rights, shutting off some right or other, I don't know what is it, but when men do wrong I want their rights shut off. And I am not saying that I am afraid the legislature will treat us or treat any society badly that does what is right. And while I am more liberal than the gentleman from Boise is, I am willing they should all come in, and all stand the same test, and if they do

violate the law, I want them stopped right there. I care not what society it is teaching, I want that power left to the legislature, and I don't want it shut out by this constitution, that they cannot stop anarchists, cannot stop laboring men, I care not if they go too far, or any other society, religious or whatever it may be. And the reason that has been given by the gentleman from Bingham is, that he has shown you the wrongs of this Mormon church.

Now I want that to go in with the rest, and I want some power left in this legislature, for I believe that we can elect honest legislators, and they will do what is right. I have no fear of them. These men that say they have a fear of them, I am suspicious of *them*, because I cannot see why. They say to restrict it to that class. I do not want to restrict it to anything. I want everybody to come under the same rod, and if they come under the rod, let it drop on them; and if they are under it, let it come. I have no sympathy with anything that is against our government or that ever attempts to overthrow our government, let it be Mormons, let it be whatever it be, I want the power in the legislature that they may enact such laws that, if we will not restrict them in this, they may enact such laws as to keep them quiet; and whenever there is an organization of any kind that rises up and says "We are above the law" I want them put down.

Mr. AINSLIE. Mr. Chairman, it appears to me that the members cannot get up on this floor and argue a legal proposition or the necessity of constitutional restriction upon one branch of the state government, without somebody shouting "Mormon." It appears to me that they have this thing of Mormonism on the brain, some of them have—a great many of them, There is no use endeavoring to conceal the intentions of a party by making a big smoke or a big dust about a question that is practically settled between the two parties. That question of Mormonism is settled, so far as it can be settled by the votes of the democratic

party and the republican party of Idaho Territory in this convention. We have deposited in the legislative branch of the government every power they can possibly possess to frame laws of registration or any kind of law, no matter whatever, for additional limitations and restrictions and qualifications upon that class of people. Now, as I understand, they do not complain of any other class of people, but they want to include everybody else under a provision that they admitted in the outset of this whole proposition was intended to put down theocracy in Mormonism. There is no pretense of any other religious denomination practicing that except the Knownothings, and I think there must be a good many of them on this floor. They might come in here in the excitement of a legislative body assembled in this capitol and say there are too many Catholics that believe in the infallibility of the Pope. That is a foreign power, and we will pass a law here, as the constitution authorizes us to pass it, that any person who believes in the infallibility of the Pope is a dangerous person, and the prosperity of the state is threatened and we will deprive that person or those persons of the right of suffrage. That was a Know-nothing argument thirty-five years ago. And the legislature may take that same view of it again if you deposit such a dangerous power in the legislative department of this state, as this section proposes to deposit there. I don't say they will do it, but we know how it was no more than a third of a century ago, when it was tried in about one-half the states of the Union. And I say it is not a safe power to vest in the legislative department that is elected every two years in the state, as proposed by the provisions we have already adopted. Now, we have been given a detailed history of the Mormon church by the gentleman from Bingham. You can find mysteries and murders committed everywhere by Mormons and everybody else. Nobody is standing here apologizing for any crimes the Mormons have committed. You cannot take the

democratic party or any other party in this territory as being the apologist of crime committed by anybody, black or white, Mormon or anti-Mormon. No sir, that cry won't go. The gentleman says we have lived under an organic law that vested in the legislature the same power. I deny the proposition. I say that if you read the organic act you will find there are restrictions on the legislative power. And further than that, the congress of the United States had the right to utterly repeal every act passed by the legislature of this territory and of every other territory in the United States. We have no controlling power over the legislature. If you embody in your constitution Section 4, giving them that unlimited, unrestricted power prescribed within the qualifications to vote, we have no higher power to appeal to, the legislative power is then supreme; but while we are a territory congress reserves the right, and it is inherent in the constitution, to repeal any law or act passed by the territorial legislature, and it has been done time and time again. An act passed by the legislature awhile ago creating a district attorney for each county of the territory¹—a matter that was not political, which did not affect the morality or peace of the state—was repudiated and annulled by act of congress.² And congress has passed acts frequently at different times, I believe, annulling the whole session laws of the territory of Arizona, and also annulling about one-half of the laws of a session of Montana; and Wyoming to the same effect. That is where the limit came upon the power of the territory; they are subject to the supervision of a higher power, the power of the United States. But, if you place this unrestricted power in the legislature of the state of Idaho, there is nothing in the constitution or general government under which we live that can re-

¹—See *People v. Heed*, 1 Ida. 404. Act of Jan. 15, 1869, 5th Terr. Sess. Laws., p. 91.

²—Act of July 15, 1870; 16 Stat. L. 366.

strict this unlimited power you propose to vest in a body of irresponsible men elected every two years.

One more thing. The gentleman from Bingham referred, I believe, to a full-fledged bishop in the democratic convention a year or two ago. I was at that convention, and I don't know anything about it; but what I do know is that there was one Mormon in the democratic convention two years ago. And at least fifteen years ago there has been a full-fledged bishop and counsellor on the republican territorial committee, to my knowledge, and may be yet.

Mr. GRAY. Are we afraid of the legislature? Why are we afraid when we do right?

“Question, question.”

The CHAIR. The question is, it has been moved and seconded that the section be adopted, and the gentleman from Boise offered as a substitute that which has been heretofore read by the secretary. The question comes up first on the adoption of the substitute. All in favor of adopting the substitute——

Mr. REID. Mr. President, the gentleman from Boise demanded the ayes and nays.

The CHAIR. It was not seconded.

Mr. REID. I second it.

The CHAIR. The clerk will call the roll on the question of adopting the substitute offered by the gentleman from Boise.

Roll-call:

Ayes: Ainslie, Anderson, Beane, Blake, Chaney, Clark, Hogan, Jewell, Kinport, Mayhew, Parker, Poe, Reid, Steunenberg Vineyard—16.

Nays: Allen, Armstrong, Ballentine, Beatty, Brigham, Campbell, Glidden, Gray, Hampton, Harkness, Hasbrouck, Heyburn, Hays, Lemp, Lewis, Maxey, McConnell, Melder, Myer, Morgan, Moss, Pierce, Pinkham, Pritchard, Pyeatt, Robbins, Salisbury, Savidge, Shoup, Standrod, Sweet, Taylor, Underwood, Whitton, Wilson, Mr. President—36.

The CHAIR. On the motion to adopt the substitute offered by the gentleman from Boise, the vote stands: ayes 16; nays 36. The motion is lost.

ARTICLE VI., SECTION 4.

The CHAIR. The question now recurs upon the motion to adopt Section 4 of the majority report, as recommended by the committee of the Whole. All those who are in favor of adopting the same will——

A member calls for the ayes and nays.

The CHAIR. The secretary will call the roll, and those voting to——

Mr. POE. Before that question is put on the adoption of that article I desire to make a few remarks. We have upon principle, Mr. President, fought that article for the reason that we desired another by way of substitution. The substitute of course has been thoroughly discussed in this convention. It was well understood. The reasons why we preferred that to the section offered by the majority report have been given. Our position upon that is well understood. We believe, and that is my candid opinion now, that it might imperil the passage of this constitution, or the ratification or adoption of it by Congress. That was our candid belief, and it was in behalf of the final adoption of this constitution that we made this fight. If the republican members of this convention have gone too far, and engrafted something upon this constitution, which will prevent it from being passed upon by Congress, then if there is any fault it is at their door.

As I said before, we stand shoulder to shoulder with the republican party fighting this question of Mormonism. The republican party acted no doubt in sincerity and with a desire and a design to use every means within its power to crush this institution of Mormonism. I say in their wisdom and in their judgment; whether it be correct or not is not for me to say. But I am satisfied that they are honest in their convictions and that they desire to crush the institution of Mormonism in common with us, and therefore, according to their judgment they conceive this substitute not to be sufficient to accomplish that end. Therefore, without

any partisan design or anything of that kind, or without any design to get any party advantage over the democratic party, they saw proper for the purpose of accomplishing that end, to put this more radical section in than we thought was safe to go. I will say now that while I fought this measure I fought it not upon the principle that it was intended to, and would ultimately, crush the Mormons, because it is my heart's wish that that may be accomplished, and if the constitution can or will be received by Congress with that sweeping clause in it, so far as I am concerned, I am willing that it should go. I will say, furthermore, to the gentlemen of this convention, that I came here with the bona fide design and intention of adopting a constitution republican in form which Congress would accept and which the people would ratify. I hope that we may accomplish that end, and not one word nor line nor letter from me when I go abroad into the land among my constituents shall ever be said in opposition to whatever constitution we may send out to the people. (Applause.) I will do all that I can to have it ratified by the people, and if in my humble station I could assist in its passage in Congress I would do so. And I ask every democratic friend that I have on this floor to vote in support of the proposition that is now before the convention. And I ask every democratic and every republican friend that I have in this house, that whatever inability they may have had, whatever failures they may have made to get certain provisions into that constitution which meet with their approbation, if the majority say no, I shall bow to the majority. And I say to all of them ; be men and go out and accomplish what you came here to accomplish, if in your power, to wit, the ratification of this constitution by the people and by Congress. (Applause.)

Mr. VINEYARD. So far as I am concerned, I shall vote No, when this question is called, for the reasons assigned in my talk this evening;—too much power here conferred on any legislative body.

“Question, question !”

On the roll being called the vote stood: Ayes 42, nays 10, as follows:

Ayes: Allen, Armstrong, Ballentine, Beane, Beatty, Brigham, Campbell, Coston, Glidden, Gray, Hampton, Harkness, Hasbrouck, Hays, Heyburn, Hogan, Lemp, Lewis, Maxey, Mayhew, McConnell, Melder, Myer, Morgan, Moss, Pierce, Pinkham, Poe, Pritchard, Pyeatt, Reid, Robbins, Salisbury, Savidge, Shoup, Standrod, Sweet, Taylor, Underwood, Whitton, Wilson, Mr. President—42.

Nays: Ainslie, Anderson, Chaney, Clark, Jewell, King, Kinport, Parker, Steunenbergh, Vineyard—10.

And the section was adopted.

SECTION 5.

SECRETARY then reads Section 5: For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of this state, or of the United States, nor while engaged in the navigation of the waters of this state or of the United States, nor while a student of any institution of learning, nor while kept at any almshouse or other asylum at the public expense.

Moved and seconded that the section be adopted as read. Carried.

ARTICLE VI. ADOPTED.

Mr. BEATTY. I now move the adoption of the entire article, and upon that I demand the ayes and nays.

The CHAIR. Is there any second for the call for the ayes and nays? (Seconded.)

The question was put by the chair, the secretary called the roll, and the vote was recorded as follows:

Ayes: Allen, Armstrong, Ballentine, Beane, Beatty, Brigham, Campbell, Chaney, Coston, Glidden, Gray, Hampton, Harkness, Hasbrouck, Hays, Heyburn, Hogan, Jewell, Kinport, Lemp, Lewis, Maxey, Mayhew, McConnell, Melder, Myer, Morgan, Moss, Pierce, Pinkham, Poe, Pritchard, Pyeatt, Reid, Robbins, Salisbury,

Savidge, Shoup, Standrod, Sweet, Taylor, Underwood, Whitton, Wilson, Mr. President—45.

Nays: Ainslie, Anderson, Clark, King, Parker, Steunenbergh, Vineyard—7.

There being yeas 45, nays 7, and the article as a whole was adopted.

The CHAIR. The question now before the convention under rules 49 and 52 is the engrossment of the article (Article 6) and fixing a time for its final reading.

Mr. MAYHEW. Mr. President, I believe that we have no committee on Engrossment at all.

Mr. MORGAN. Mr. President, it occurs to me it should be referred to the committee on Revision.

Mr. MAYHEW. I think not.

The CHAIR. I will read the rule. The chair is proceeding under the rule. "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." Rule 52. "When such proposition shall have been considered in committee of the Whole and amendments proposed thereto have been disposed of by the convention, the question shall be on ordering the proposition to a final reading and fixing the time thereof."

The question now is, fixing a time for the final reading.

Mr. REID. I will call the chair's attention, and the gentleman from Shoshone, to Rule 53, spoken of awhile ago.

The CHAIR. The chair understands that refers to when it goes to the Revision committee after it has been finally read and adopted.

Mr. POE. Mr. President, it would appear now, that at this present time, at this stage, someone would have

to take that bill and engross it. Have we any engrossing committee to copy it and put it in form so that it can be passed to third reading? If we have not, we must have one, and I move that the chair appoint an engrossing committee.

The CHAIR. I presume the matter could be engrossed by the clerk.

Mr. POE. Very well, if that is understood.

Mr. MAYHEW. I would like to ask this question. I would like to inquire of the chair or any other member if these matters could be engrossed, and the chair understands the clerk can engross? Of course, the clerk can engross it, but there should be a committee to see whether the articles are correctly engrossed.

The CHAIR. Does the gentleman move to appoint a committee?

Mr. MAYHEW. Yes, a committee of three.

The motion was seconded, voted upon and carried.

Mr. MORGAN. Rule 54 seems to indicate that the third reading—I will read the rule: “The committee on Revision having completed its revision as provided in the preceding rule, shall report the article or articles of the constitution to the convention, when it shall be fully read, and when it is thus read, the question shall be on agreeing to the article or articles so amended and revised, and if the same shall be decided in the affirmative, the constitution as a whole shall be carefully enrolled under the supervision of the committees on Enrollment and Revision and signed by the president and members of the convention.”

Mr. McCONNELL. Mr. President, I move that the committee on Engrossment be ordered to report this bill tomorrow afternoon at 2 o'clock, and that it be made the special order of the day at that hour for its final reading.

Mr. MAYHEW. I don't think that is a proper motion. It may take some time for the engrossing clerk to engross this article. We could not report until the article is engrossed and returned to the engrossing com-

mittee. Then the committee is given time to examine the engrossed article and compare it with the original.

The CHAIR. It there any second to the motion of the gentleman from Latah?

Mr. GRAY. I second the motion.

Mr. McCONNELL. This is not a lengthy bill. I am satisfied our clerk can engross this bill in an hour, and I am satisfied the committee can check it over and see whether it is correct in another hour, and I think it would be better while we are at work on this article to have it out of the way. I think there will be ample time by two o'clock tomorrow. If not, if the committee comes in and gives reasons why it cannot reach it, I presume the convention will excuse them.

The motion was put to a vote and carried.

Mr. BEANE. I move we adjourn.

Mr. GRAY. That committee has not been appointed yet, I understand.

The CHAIR. No, not yet.

RESOLUTIONS.

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

SECRETARY reads: *Resolved*: That the thanks of this convention are hereby tendered to Mayor and Mrs. James A. Pinney for the pleasant and enjoyable reception extended to the members thereof on the evening of the 22nd inst.

The motion was seconded. (Carried.)

Mr. REID. I also offer the following resolution and move its adoption:

SECRETARY reads: *Resolved*: That the thanks of this convention are hereby tendered to the ladies and gentlemen of Boise City for the artistic and highly entertaining concert given in compliment to the members hereof on last evening.

Motion seconded. (Carried and resolution adopted.)

The CHAIR. I congratulate the convention on discovering two propositions upon which it was a unit.

Mr. BEANE. I move we now adjourn until ten o'clock tomorrow morning. (Seconded.)

Mr. HEYBURN. I move to amend by making it nine o'clock. (Seconded.)

The question was put and the vote taken and before announced a division demanded.

Rising vote taken. Ayes 40. Carried.

And the convention adjourned until nine o'clock July 26, 1889.

NINETEENTH DAY.

SATURDAY, *July 26, 1889.*

9 o'Clock A. M.

Convention called to order by the president.

Prayer by the chaplain.

Roll call:

Present: Ainslie, Anderson, Armstrong, Beatty, Bevan, Blake, Brigham, Campbell, Chaney, Crutcher, Hampton, Harkness, Harris, Hays, Heyburn, Jewell, King, Kinport, Lewis, Maxey, Melder, Myer, Morgan, Moss, Pierce, Poe, Pyeatt, Reid, Robbins, Savidge, Standrod, Steunenbergh, Taylor, Underwood, Vineyard, Whitton, Mr. President.

Absent: Allen, Andrews, Ballentine, Batten, Beane, Cavanah, Clark, Coston, Crook, Glidden, Gray, Hagan, Hammell, Hasbrouck, Hendryx, Hogan, Howe, Lamoreaux, Lemp, Mayhew, McConnell, McMahan, Parker, Pefley, Pinkham, Pritchard, Salisbury, Sinnott, Shoup, Stull, Sweet, Wilson, Woods.

The secretary read the journal.

APPOINTMENT OF ENGROSSING COMMITTEE.

The CHAIR. I have appointed the following as the Engrossing committee: Hasbrouck of Washington; Mayhew of Shoshone and Sweet of Latah. I wish to say that I have not appointed the mover, Mr. Mayhew, chairman of the committee, because he requested that I should not do so.

TRANSCRIPTION OF NOTES OF PROCEEDINGS.

Mr. HEYBURN. Mr. President, it has been sug-