

the committee, and as this is the afternoon designated for the meeting, I hope all members will make it a point to be on hand.

Mr. PALMER. I desire to call a meeting of Committee No. 18, in the room on the west side, immediately after adjournment.

Mr. JOHNSTON. I would like, if not out of order, to call together the committee that was appointed to furnish information to the senate committee on irrigation to meet in Prof. Mead's room this evening. He may have some information and instructions to give them, which will enable them to collect the information desired.

Mr. PRESIDENT. Does the convention understand the request made by Mr. Johnston. The committee appointed to confer with the senate committee on the matter of irrigation are requested to meet at the office of Mr. Mead this evening.

Mr. SMITH. I would like to call a meeting of Committee No. 14, but I don't know just when to call it, as there are a number of us on No. 5, but perhaps as soon as we get through that, we can stop here a few moments and arrange before we go away for a meeting this evening.

Mr. BAXTER. With the permission of the gentleman who made the motion to adjourn, I would like to ask whether the convention will be prepared to take any action tomorrow morning. If not it seems to me it would be wise to allow the forenoon to our committee work tomorrow. If there is nothing more important than the discussion of the rules I think we might adjourn. Is there any gentleman here who can say whether or not there will be anything here to consider tomorrow morning?

Mr. CHAPLIN. It is quite likely that everything ordered printed can be furnished to this convention by 10 o'clock tomorrow morning.

Mr. PRESIDENT. The question is on the motion to adjourn, unless it is further delayed by request. It is moved that we do now adjourn until 10 o'clock tomorrow morning. All in favor of the motion will say aye; those opposed no. The ayes have it; the motion to adjourn prevails.

NINTH DAY.

MORNING SESSION.

Wednesday, Sept. 11, 1889.

The convention reassembled at 10 o'clock.

President Brown in the chair.

Mr. PRESIDENT. Convention will come to order.

Prayer.

Mr. PRESIDENT. The secretary will call the roll.
Roll call.

The secretary will read the journal of yesterday.
(Reading of the journal of the eighth day.)

Mr. PRESIDENT. Gentlemen of the convention, are there any corrections to be made in the journal? The chair hears none suggested. The record will stand approved unless objection is made; there being no objection the record is approved as read.

Mr. BAXTER. I would like the record to show I was present. I was not here at roll call, but attended the session through the day.

Mr. HAY. I would like to make the same request. I was here all day.

Mr. PRESIDENT. Both gentlemen made that request on yesterday, or it was made for them, and the roll call was ordered to show their presence.

Mr. IRVINE. I would like to make the same request for this morning. I was not present at roll call.

Mr. PRESIDENT. The chair noticed Mr. Teschemacher and Mr. Hay of Laramie, and Mr. Scott of Crook came in after roll call. If so desired the record will show their presence.

I see, gentlemen, there is present this morning, Mr. DeForest Richards, member elect from Converse county to this convention. Justice Carroll is also here. I believe the credentials of Mr. Richards have been passed upon by the convention, and if there is no objection he will be sworn in as a member of this convention. The chair hears no objection. Will the gentleman, Mr. Richards, come forward and Justice Carroll administer the oath?

(Swearing in of Mr. Richards.)

Mr. PRESIDENT. I would like to say to Mr. Richards, on behalf of the convention, that we are glad to have him here with us as a member.

Introduction of propositions, memorials and petitions will now be in order.

Mr. CAMPBELL. I have here a proposition concerning the incorporation of cities, towns and counties.

Mr. MORGAN. I have a proposition concerning the legislative department.

Mr. GRANT. I have a proposition.

Mr. McCANDLISH. I have a proposition concerning county officials.

Mr. PRESIDENT. Are there any further propositions? The chair hears none. The secretary will read such propositions and resolutions as have been presented, in the order in which they came to the desk.

SECRETARY. File No. 59, by Mr. Fox.

Sec. 1. The following oath or affirmation shall be required of every person elected or appointed to any school office, or

for their supervision, or for the management of the school lands or other public property before entering upon the duties of their office.

“Do you solemnly swear (or affirm) that you will support and defend the constitution of the United States, and of the State of Wyoming, that you are in favor of free public schools, that you will use your best endeavors to forward their interests, promote their welfare and protect the property and franchises set apart or granted for their use by any authority whatever. So help me God?”

Sec. 2. Any person refusing to qualify according to the foregoing oath or affirmation shall be disqualified from holding any public school official trust or responsibility.

Mr. PRESIDENT. Gentlemen of the convention, if not otherwise ordered, File No. 59 will be referred to Committee No. 5, qualifications to office, etc.

Mr. TESCHEMACHER. I would like to suggest that it be referred to the Committee No. 7, on education. It seems to me that Committee No. 5 will only want to make general qualifications, and that any special qualifications should be referred to some special committee.

Mr. FOX. I should favor the recommendation that it be referred to the committee on school matters.

Mr. PRESIDENT. File No. 59 will then be referred to Committee No. 7, on education, etc. The clerk will read the next file.

SECRETARY. File No. 60, by Mr. Fox.
Federal Relations.

Sec. 1. The state of Wyoming is an inseparable part of the American union and the constitution of the United States is the supreme law of the land. The following article shall be irrevocable without the consent of the United States and the people of this state.

Sec. 2. Perfect toleration of religious sentiment shall be secured, and no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship.

Sec. 3. The people inhabiting this state do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and that said Indian lands shall remain under the absolute jurisdiction and congress of the United States, that the lands belonging to citizens of the United States residing without this state shall never be taxed at a higher rate than the lands belonging to residents of this state, that no taxes shall be imposed by this state on lands or property therein, belonging to,

or which may hereafter be purchased by the United States, or reserved for its use. But nothing in this article shall preclude this state from taxing as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person, a title thereto, by patent or other grant, save and except such lands as have or may be granted to any Indian or Indians under any acts of congress containing a provision exempting the lands thus granted from taxation, which last mentioned lands shall be exempt from taxation so long and to such an extent as is, or may be, provided in the act of congress granting the same.

Sec. 4. The state of Wyoming shall assume and pay all warrants, bonds, debts and liabilities of every nature that have been contracted by the territory of Wyoming and remaining unpaid at the time of her admittance into the union.

Sec. 5. The legislature shall make laws for the establishment and maintenance of systems of public schools, which shall be open to all children of the state and free from sectarian control.

Mr. PRESIDENT. Gentlemen of the convention, File No. 60 contains matter that perhaps might be considered by various committees, but as it deals more generally with our relations with the federal government as to school lands, and the money that may be derived from them, unless otherwise ordered it will be referred to Committee No. 16, on federal relations, etc. Is there objection? The chair hears none, it is so ordered.

SECRETARY. File No. 61, by Mr. Campbell.

Mr. PRESIDENT. File No. 61, unless otherwise ordered, will be referred to Committee No. 12, county, city and town organization.

Mr. ELLIOTT.

Mr. PRESIDENT. The gentleman from Johnson, Mr. Elliott.

Mr. ELLIOTT. Committee No. 12 on yesterday reported a proposition on this subject, recommending that it be incorporated into the constitution. The referring of this question to them at this time would require them to do their business all over again. I therefore move, if in order, that it be printed and referred to the committee of the whole.

Mr. BURRITT. The report of Committee No. 12, submitted yesterday, contained all the provisions that this proposition contains in reference to cities and towns, except one brief provision, which, if printed, the members can give it consideration in committee of the whole. The balance of the proposition refers to the salaries of public officers. A similar proposition is already in the hands of the secretary, both of which really ought to go to Committee No. 15, on salaries of public officers. I therefore move the reference of this to Committee No. 15.

Mr. PRESIDENT. In the reference of all matters of this kind, under the rules, reference to committee of the whole has

the preference in the order in which these matters shall be put. The request is to refer to committee of the whole. All in favor of referring this proposition to committee of the whole will say aye; those opposed no. The noes have it. The motion to refer to committee of the whole is lost. The question will now be on the reference of File No. 61 to Committee No. 15, on salaries of public officers. All in favor of referring File 61 to Committee No. 15 will say aye; those opposed no. The ayes seem to have it. File No. 61 is referred to Committee No. 15.

SECRETARY. File No. 62, by Mr. Morgan.

Mr. MORGAN. As this is a long document I would request if it is in order that the first page only be read. I want to save the time of the convention. The first page is all that is of any great interest.

Mr. PRESIDENT. Is this a report from a committee of matter to go into the constitution?

Mr. MORGAN. It is a proposition from a member.

Mr. PRESIDENT. If there is no objection the first page will be read. There being no objection the clerk will read the first page of the proposition.

Mr. MORGAN. That is all that I care to have read.

Mr. PRESIDENT. File No. 62, unless otherwise ordered by the convention will be referred to Committee No. 2, on legislative department. Is there objection? The chair hears none. Proposition No. 62 is so referred. The secretary will read.

SECRETARY. File No. 63, by Mr. Grant.

Mr. MORGAN. I ask leave that Committee No. 2 be allowed to sit today during the session of the convention.

Mr. PRESIDENT. Is there objection? You have heard the request of the gentleman from Laramie that Committee No. 2 be allowed to sit during the session of the convention. There being no objection, the committee is so authorized. The clerk will proceed.

SECRETARY. File No. 63, by Mr. Grant.

Mr. PRESIDENT. Unless otherwise directed File No. 63 will be referred to Committee No. 11, taxation, revenue and public debt. Is there objection? The chair hears none; it is so referred.

SECRETARY. File No. 64, by Mr. Morgan.

Mr. PRESIDENT. Gentlemen of the convention, unless otherwise ordered File No. 64 will be referred to Committee No. 5, on elections, qualifications to office, etc. The chair hears no objection; it is so ordered. The secretary will read.

SECRETARY. File No. 65, by Mr. McCandlish.

Mr. PRESIDENT. File No. 65, unless otherwise ordered by the convention, will be referred to Committee No. 15, on salaries of public officers. Is there objection? The chair hears none. File No. 65 is so referred to Committee No. 15.

Reports of standing committees are now in order.

Mr. PALMER. Mr. President.

Mr. PRESIDENT. The gentleman from Sweetwater, Mr. Palmer.

Mr. PALMER. I have a report from Committee No. 18.

Mr. PRESIDENT. Any further reports?

A committee was ordered yesterday to inspect the work of the stenographer from day to day as that work may be presented by her. I will appoint on that committee Mr. Fox, of Albany; Mr. Jeffrey and Mr. Baxter, of Laramie.

Are there any further reports from standing committees? Any reports from select committees? The clerk will read the report of the committee presented.

SECRETARY. Report of Committee No. 18, concerning Files 13 and 46.

(See journal page 44.)

Mr. PRESIDENT. Gentlemen of the convention. Do you desire the matter referred back to be incorporated in the constitution, printed? Under our rules, matter reported by a committee to be incorporated into the constitution may be printed, if so ordered at this time; it will then lay over until it is printed and the printed copies returned to the convention, and it will then come up under our rules for consideration in committee of the whole. If not printed it will come up in the regular order today.

Mr. IRVINE. I move that the substitute as regards to future amendments, that part of the report of Committee No. 18, be printed.

Mr. BURRITT. I move that File No. 46 and the substitute be printed.

Mr. McCANDLISH. Second the motion.

Mr. IRVINE. I accept that amendment.

Mr. PRESIDENT. It is moved that File No. 46 and the substitute to File 13 be printed. All in favor of the proposition as made will say aye; those opposed no. The ayes have it. The files as reported are ordered printed. The clerk will read.

SECRETARY. Report of Committee No. 5.

(See journal page 44.)

Mr. PRESIDENT. What will you do with the report of your committee, gentlemen?

Mr. POTTER. I ask for information. What is the proposition reported back without the recommendation of the committee?

Mr. PRESIDENT. In order that the convention may be informed the secretary will read the proposition.

(File No. 18 re-read here.)

Mr. PRESIDENT. The recommendation of Committee No. 5 is that this matter be referred to Committee No. 3. Are you ready for the question? All in favor of referring to Committee No. 3 will say aye; those opposed no. The ayes have it. The proposition is referred to Committee No. 3. Any further reports, Mr. Secretary?

SECRETARY. None, Mr. President.

Mr. PRESIDENT. Gentlemen; the matter of the resolution offered by the gentleman from Albany county, Mr. Hoyt, is now before the convention for its consideration. In order that the convention may be fully posted the secretary will read the resolutions.

SECRETARY. Resolutions by Mr. Hoyt.

(Reading of the resolutions, which appear under date of September 7th, on which day they were presented^d to the convention.)

Mr. PRESIDENT. Gentlemen, the resolution is before you for adoption, amendment, or such disposition as may be deemed proper to make.

Mr. JEFFREY. I wish to offer an amendment to be inserted in the place of No. 2, and then all the other sections will be numbered one number higher. The matter that I propose to insert as No. 2 is a copy of the resolutions adopted by the boards of county commissioners of the several counties in the territory, which I believe was the foundation of the action of the governor and other officials.

Mr. PRESIDENT. If I understand it, you wish to add to one of the provisions of the proposition, that matter.

Mr. JEFFREY. I do.

Mr. HOYT. I think there can be no objection made to the adoption of the amendment. I think it might be embodied in the resolution.

Mr. PRESIDENT. The resolution will then be amended, as suggested by Mr. Jeffrey, if there is no objection.

Mr. POTTER. Is there any motion before the house at all?

Mr. PRESIDENT. I think not.

Mr. POTTER. I move that it be adopted.

Mr. RINER. Second the motion.

Mr. PRESIDENT. Adopted as an amendment?

Mr. POTTER. Yes.

Mr. PRESIDENT. Perhaps the house ought to be fully advised of the nature of the amendment before it is adopted. Will the gentleman reduce his amendment to writing, so we may know what we are doing, or state his amendment again?

Mr. JEFFREY. Resolved, That the resolutions adopted by the several boards of county commissioners in the territory of Wyoming be incorporated in the resolution.

Mr. PRESIDENT. The question is upon the adoption of the resolution. Are you ready for the question? All in favor of the adoption of the resolution will say aye; those opposed no. The ayes have it; the resolution is adopted. The secretary will now read Mr. Hoyt's resolution as amended.

(Mr. Hoyt's resolution re-read.)

Mr. PRESIDENT. Gentlemen, you have heard the resolution read. The question is before you now as to its adoption or other disposition. What is the pleasure of the convention?

Mr. BURRITT. I move the resolution be adopted.

Mr. JOHNSTON. Second the motion.

Mr. PRESIDENT. The question is shall the resolution as read be adopted. Are you ready for the question? All in favor of the motion will say aye; those opposed no. The ayes have it, the resolution stands adopted. Is there anything further on the table this morning, Mr. Secretary?

SECRETARY. No, Mr. President.

Mr. TESCHEMACHER. Mr. President.

Mr. PRESIDENT. The gentleman from Laramie, Mr. Teschemacher.

Mr. TESCHEMACHER. I would like very much to call the attention of the committee on ordinances to the fact that we cannot adopt any provision of this constitution, if we are acting under Senate Bill 2,445, which we have been trying to act under, until we have adopted one ordinance, and as the ordinance is a very simple one, it seems to me that the committee should report that ordinance and have it passed, so we can adopt clauses of this constitution.

Mr. POTTER. What ordinance is that?

Mr. TESCHEMACHER. It is the one that requires us to agree to obey the constitution of the United States.

Mr. PRESIDENT. The gentleman refers to the resolution offered by Mr. Jeffrey, that we adopt the constitution of the United States. The resolution was referred to what committee, Mr. Secretary?

SECRETARY. No. 1, Mr. President.

Mr. PRESIDENT. A report is called for.

Mr. RUSSELL. Mr. President.

Mr. PRESIDENT. The gentleman from Uinta, Mr. Russell.

Mr. RUSSELL. It seems to me that we are not working under any one ruling, or any one law in framing this constitution, directly in opposition to the will of the people. I think the only ruling we are working under is representation. We are not compelled, as I understand it, to take any particular part or to adopt any particular line of conduct as to our framing of this constitution. The gentleman from Laramie says and often quotes this law that is laid down in this document here of the senate ruling, or our application of that senate bill. Now, I don't think myself we are working under any definite control other than the control of the people which we represent. I think if these questions were left and we were allowed scope for our wisdom we should save a little of the time that has been spent here, and may spend here in our decision of these matters. I consider we have frittered away a good deal of time in splitting hairs and deciding matter of quotations of that ruling, that are of no moment to the people of our territory, or our future state. They do not care to have us here deciding whether we shall rule this way or that way. What we want is some good law, some good foundation, and I object

as a member of this convention to this convention meeting here and when we get here do nothing but split hairs and divide the difference.

Mr. PRESIDENT. Will the gentleman come to order? There is no question before the house for debate.

Mr. RUSSELL. I will take exception to the ruling, Mr. Chairman, by calling attention to the fact that I can talk on the quotation made by the gentleman over there. I speak to the question alluded to by him.

Mr. PRESIDENT. There is no question before the house. If the gentleman desires he can appeal.

Mr. POTTER. Question.

Mr. PRESIDENT. It is within the power of the convention to call for the report of a committee at any time. Is there a motion that the Committee No. 1 be required to report at this time on the resolution referred to. The matter can be reached in that way, if desired by the convention.

Mr. JEFFREY. I call for the report of the committee.

Mr. TESCHEMACHER. Second the motion.

Mr. PRESIDENT. It is moved and seconded that Committee No. 1 be required to report back on the resolution offered by the gentleman from Laramie, Mr. Jeffrey, as to the adoption of the constitution. The matter is now before the house for its action. The gentleman from Uinta can discuss the question if he desires.

Mr. RUSSELL. I only wish to say this. That I wish to support the motion, to sustain it in its ruling, but I object entirely to the disposition of the convention to occupy its time as it has done in the past in patting me on the back, or the other fellow on the back, and saying we are good fellows, very wise men. For my part I am down here on my own account, I work for my living, I have come here and have to pay my expenses here. I stay here without any salary, or without any pay. My people that I represent are a working class of people, and I think we have had sufficient in this convention of you tickle me and I will tickle you.

Mr. POTTER. I rise to a point of order. I don't think the gentleman is speaking to the question, and he is out of order.

Mr. PRESIDENT. The point of order is well taken.

Mr. RUSSELL. I will go back to the question. I will take it up under that head.

Mr. PRESIDENT. When a question of order is raised and sustained any gentleman addressing the chair is required to sit down. He may be permitted to proceed with his argument with the consent of the house. Is there objection to the gentleman further proceeding? The chair hears none. The gentleman can proceed by addressing himself to the convention on the question before the house.

Mr. RUSSELL. The question is this. Shall we conform to any particular proceeding in making our constitution? Are the

laws of the United States not sufficiently broad enough, and say that we represent the people. The rule that should govern us should be the will and the wish of the people we represent, not because this ruling says you will follow this proceeding, that is the particular way. I think this convention will become original in its action, it will incorporate original matters perhaps in its construction of a constitution, and that it will be different, and there is no law laid down by which we may be governed, other than the will of the people we represent. I refuse to sit here day after day and listen to men pat the other fellow on the back and call him hail fellow, well met. This is not making constitutions for Wyoming's people, for Wyoming's state. I think we have had perfectly sufficient of this. I am pretty near tired of sitting here listening to the word of the other fellow calling his right hand neighbor good fellow.

Mr. PRESIDENT. The question is shall the committee be requested to report back the resolution offered by the gentleman from Laramie, that we adopt the constitution of the United States. All in favor of the motion will say aye; those opposed no. The ayes have it, Committee No. 1 is requested to report back the resolution.

Mr. BAXTER. I desire to inform the convention that never since we have met here, since a week ago last Monday, excepting one day, has there been a quorum present of this committee, and that was before the reference of this particular matter was made. There are only five members of the committee and three have been constantly absent since the committee was formed, except one day.

Mr. CAMPBELL. Mr. President.

Mr. PRESIDENT. The gentleman from Laramie, Mr. Campbell.

Mr. CAMPBELL. I desire to make a motion. It is in reference to the death of Sunset Cox. It is well known by every person who has followed the course of the discussion in congress the last few years, that there has been no more able or sincere friend for the admission of the territories into the union than the late Sunset Cox. I think it is no more than right that this convention should extend its sympathy to the widow of Mr. Cox, and I therefore desire that this telegram be sent to Mrs. Cox, as the expression of this convention:

"In the death of your distinguished husband, we recognize the loss of an earnest and able advocate for our admission as a state. Permit us to extend our sympathy in this your hour of affliction."

Mr. CAMPBELL. I would move, Mr. President, that that message be sent to Mrs. Cox from this convention.

Mr. HAY. Second the motion.

Mr. PRESIDENT. Gentlemen, the question is upon the adoption of the resolution of the gentleman from Laramie, Mr. Campbell. Are you ready for the question? All in favor of

the adoption of the resolution will say aye; those opposed no. The ayes have it; the resolution is adopted.

Mr. BAXTER. Mr. President.

Mr. PRESIDENT. The gentleman from Laramie, Mr. Baxter.

Mr. BAXTER. In order to bring the matter before the convention that was just referred to preceding the adoption of this resolution, I desire to request that the resolution of the gentleman from Laramie, Mr. Jeffrey, be referred to the committee or ordinances. There is no telling when we can get a quorum of that committee, and I think the matter ought to be attended to as soon as possible.

Mr. PRESIDENT. The chairman of that committee is authorized to make the report, without any other member concurring therein.

Mr. BAXTER. I should be glad to have that authority.

Mr. HOLDEN. I desire to make the following motion: that there be added to the committee appointed by this convention to meet and confer with the United States senate committee, which is to visit this city in the near future, first, Hon. M. C. Brown, president of this convention; second, that the Hon. J. M. Carey be requested to act in conjunction with said special committee and that the secretary of this convention be instructed to notify him in writing of such request; and third, that the secretary be instructed to notify Governor Warren of the action of this convention upon the communication from said senate committee, submitted to this convention by him.

Mr. IRVINE. Second the motion.

Mr. PRESIDENT. You have heard the reading of the resolution. The question is upon the adoption of the resolution as read. Are you ready for the question?

Mr. BAXTER. Before the vote is taken on that, I desire to say that I am opposed to one part of the resolution. It seems to me that a committee has been appointed, representing this convention, and I doubt the propriety of asking any gentleman, not a member of the convention, to act as a part of the committee. I have no doubt opportunity will be given Judge Carey to appear before this senate committee which is expected, and assist in every way in presenting to them all the matters that we desire them to have, but I am opposed to his being invited to act as a part of the committee from this convention.

Mr. JOHNSTON. I would say for the information of the gentleman who has just spoken that this motion was not intended to include Judge Carey as one of the committee, but to act in conjunction with this committee, but not as one of the committee. He will meet these people more or less during the coming winter in Washington; he is the only person we have there to represent us, and we thought it only proper that he be asked to act in conjunction with this committee.

Mr. PRESIDENT. All in favor of the resolution will say aye; those opposed no; the ayes have it; the resolution is adopted.

Mr. IRVINE. Mr. President.

Mr. PRESIDENT. The gentleman from Converse, Mr. Irvine.

Mr. IRVINE. I desire to move that Mr. De Forest Richards, who I presume is now eligible for the position, be placed upon that committee to meet the senate committee.

Mr. PRESIDENT. The gentleman from Converse, Mr. Irvine, acting for the delegation from that county, suggests the name of Mr. De Forest Richards, as a member of this committee. Under the rules, there being no other nomination by the delegation from that county, Mr. Richards is appointed as the member from that section.

Mr. GRANT. I would like to call a meeting of Committee No. 11, at half-past one in the committee room.

Mr. HOYT. I desire to call a meeting of Committee No. 7, immediately after adjournment this morning.

Mr. RINER. I move we take a recess until 2 this afternoon.

Mr. TESCHEMACHER. Second the motion.

Mr. PRESIDENT. Gentlemen, it is moved and seconded that we take a recess until 2 o'clock this afternoon. Are you ready for the question? All in favor of the motion will say aye; those opposed no; the ayes have it; the motion prevails. The convention will take a recess until 2 o'clock.

Convention reassembled at 2 o'clock, President Brown presiding.

Mr. PRESIDENT. As soon as the gentlemen are seated, the sergeant-at-arms will proceed to distribute the copies of matters reported back by the committee.

Mr. ORGAN. Mr. President.

Mr. PRESIDENT. The gentleman from Laramie, Mr. Organ.

Mr. ORGAN. Committee No. 20, on ordinances, wish to make a report.

Mr. PRESIDENT. The secretary will please read.

(See journal page 47.)

Mr. PRESIDENT. Is there a motion to print. If not the matter reported back will go on to the general file, to be considered in committee of the whole.

Mr. JEFFREY. I move that the rules be suspended for the purpose of taking immediate action on this report. If it is necessary to suspend the rules.

Mr. PRESIDENT. The convention will go into committee of the whole on the general file, and this will come up then in its regular order. The clerk would like to know how this resolution got into the hands of Committee No. 20.

Mr. JEFFREY. The resolution was in the hands of Committee No. 1, and that committee was requested to report that

same back to the convention for reference to Committee No. 20.

Mr. PRESIDENT. If there is no objection I suppose the records may so show. It is the understanding of the chair that one or two of our committees are at work preparing a report to submit to the convention. The chair is delaying to call up the next order of business for that reason. The next order of business would be to go into the committee of the whole on the general file. It may perhaps be well to delay until the committees come in.

Mr. JEFFREY. I move to take a recess of fifteen minutes until the committees can get in some of their reports that are about ready.

Mr. TESCHEMACHER. I move we amend that and make it until 3 o'clock. By that time some other committees will probably be able to make some reports, and we can then go to work. At present all the time is taken up with the sessions of the convention and the committees cannot possibly do any work.

Mr. PRESIDENT. It is moved that we take a recess until 3 o'clock. All in favor of the motion will say aye; those opposed no. The ayes have it; the convention is now in recess.

(Recess until 3 o'clock.)

Mr. PRESIDENT. The convention will come to order.

Mr. POTTER. I move that the report of Committee No. 20, together with the substitute and the resolution with reference to the adoption of the constitution of the United States, be taken from the foot of the file and placed at the head of the file.

Mr. ORGAN. Second the motion.

Mr. PRESIDENT. Under our rule these matters reported back go on to the general file in the order reported. The motion is to suspend the rules and place the file in reference to the adoption of the constitution at the head of the file, instead of leaving it in its present order. The chair will not put the motion unless required. Is there objection to the file being so changed? If not, by unanimous consent, it will be placed at the front of the file.

Mr. PALMER. Mr. President, I have a report of Committee No. 18.

Mr. PRESIDENT. The business of receiving reports is not at this time in order. The house is about to go into committee of the whole on the general file.

Mr. PALMER. I will ask consent that the report be ordered printed. The subjects have been finally considered by the committee.

Mr. PRESIDENT. Gentlemen of the convention, Committee No. 18 has reported back matter to go into the constitution and ask that it be printed. Is there objection? The chair hears none. There being none, by unanimous consent the matter is ordered printed.

Mr. BARROW. Mr. President.

Mr. PRESIDENT. The gentleman from Converse, Mr. Barrow.

Mr. BARROW. Committee No. 6 asks leave of the convention to sit this afternoon at once. Owing to my absence they have not been able to accomplish much, and if allowed to sit this afternoon I believe we can catch up.

Mr. PRESIDENT. The house is about to go into committee of the whole. Do the gentlemen desire to be absent? Committee No. 6 asks leave to be absent this afternoon to consider business before them. Is there objection? The chair hears none. Leave is granted, there being no objection. A motion to go into committee of the whole to consider the general file is in order.

Mr. POTER. I move that we go into committee of the whole to consider the general file.

Mr. PALMER. Second the motion.

Mr. PRESIDENT. The motion is that we go into committee of the whole to consider the general file. All in favor of this motion will say aye; those opposed no. The ayes have it. The chair will call to the chair Mr. Baxter, of Laramie. Mr. Baxter desires to be excused from taking the chair in committee of the whole. The chair will call upon Mr. Organ, of Laramie. The house is now in committee of the whole, Mr. Organ in the chair.

Mr. CHAIRMAN. The first business before the house is the substitute for Mr. Jeffrey's resolution on the adoption of the constitution of the United States. The secretary will please

Resolved, That the delegates to this convention, elected for the purpose of forming a constitution for the proposed state of Wyoming, do hereby declare, on behalf of the people of said proposed state, that they adopt the constitution of the United States.

Mr. POTTER. I move that when this committee arise they report to the convention recommending that this resolution as just read be adopted.

Mr. JOHNSTON. Second the motion.

Mr. CHAIRMAN. Gentlemen, it is moved and seconded that when this committee arise they report that this resolution as reported by Committee No. 20 be adopted. Are you ready for the question? Any further remarks? Gentlemen, you have heard the motion as moved by the gentleman from Laramie, Mr. Potter. All in favor of the motion will say aye; those opposed no. The resolution is adopted.

The next order of business will be the consideration of File No. 58, by Committee No. 12, on municipal corporations. The secretary will please read.

SECRETARY. File No. 58, by Committee No. 12.

Municipal corporations.

Sec. 1. The legislature shall provide by general laws for the organization and classification of municipal corporations. The number of such classes shall not exceed four, and the power

of each class shall be defined by general laws, so that no such corporation shall have any power or be subject to any restrictions other than all corporations of the same class; and the legislature shall pass no special laws for the incorporation of any municipality or for amending the charter of any municipality.

Sec. 2. No municipal corporation shall be organized without the consent of the majority of the electors residing within the district proposed to be so incorporated, such consent to be ascertained according to law.

Sec. 3. The legislature shall restrict the powers of such corporations to levy taxes and assessments, to borrow money and contract debts, so as to prevent the abuse of such power, and no tax or assessment shall be levied or collected, or debts contracted by municipal corporations except in pursuance of law for public purposes specified by law, nor shall money raised by taxation, loan or assessment for one purpose ever be diverted to any other.

Sec. 4. No street passenger railway, telegraph, telephone or electric light line shall be constructed within the limits of any municipal organization without the consent of its local authorities.

Mr. BROWN. Mr. Chairman.

Mr. CHAIRMAN. The gentleman from Albany, Mr. Brown.

Mr. BROWN. I move to strike out all that portion of the first section after the word "class" in the fifth line, the words being as follows: "and the legislature shall pass no special laws for the incorporation of any municipality or for amending the charter of any municipality." I make this motion because we have, or shall have, incorporated into the constitution provisions restricting the legislature as to all such matters as this, and it is not necessary that it should be incorporated into the constitution under two different heads.

Mr. POTTER. As a member of the committee I second the motion.

Mr. CHAIRMAN. There is already a proposition introduced that will restrict this matter, and in almost the same language as we have it here in this section. Of course there is no doubt that it should go in somewhere. I suppose the revision committee would have the right to strike it out from one place and put it in another, but it seems to me that we might just as well strike it out here.

Mr. BURRITT. There is no question about the principle contained in the clause that is proposed to be stricken out, its being all right, and that it should be covered somewhere. Committee No. 12, in considering this clause, did not itself deem it important that it should go in there, assuming that it would be put in elsewhere in the clause restricting the legislature's passing certain laws of certain kinds. But lest it might be overlooked, or inadvertently left out, the committee thought it safer

to have inserted here, and when it comes to the revision committee it will be stricken out in this place if it has been put in the other, and if it was not put in the other, and got in here, the committee on revision would have its attention brought to it if it was left out in the other place, and for that reason I am in favor of this clause standing for the present just where it is, the principle being all right.

Mr. CHAIRMAN. Any further remarks?

Mr. BROWN. Mr. Chairman, I agree entirely as to the matter of principle with the gentleman from Johnson, Mr. Burritt, but I do not agree with him as to the propriety of leaving it here. I think it was well for the committee to report it just as they did, because, as the gentleman said, it reminds the convention of the necessity for such a provision, but under the general head of restrictions on the legislature the same proposition is covered, and must be covered, and is in its proper place. I doubt very much whether it lies in the power of the committee on revision to strike out portions of any matter that has been ordered incorporated into the constitution. The powers of that committee are not defined by our rules, and it may be that the house can give them such power, but as it stands now, it does not seem to me that they have the power to strike out any portions of the matter ordered into the constitution by the convention. They have simply the power to change the wording, or the language of different parts of the constitution so as to make them consistent. Of course, if the convention should order the same thing into the constitution twice, it is possible that they might have the power to strike it out, but as the committee of the whole has charge of it now, why not prune it as we go along?

Mr. SMITH. In file No. 30, section one, we have the same provision among the printed matter that we have here. The objection to strike out in this case for the reasons given by the gentleman from Johnson county would have no necessary application here, and it seems to me that the smaller we can cut the record down before we get to closing up finally, the more we prune it, it would be that much less work and less printing in the end, and it seems to me that it would be much better to cull as we go along, if we can do it. The less mass of material we have to work on the better.

Mr. CAMPBELL. I believe in the principle of never putting off until to-morrow what we can do to-day, although I never practice it. There seems to be no division of sentiment but what the proposition should be put into the constitution somewhere. Now, as a member of the committee on revision, I think we would have the right when we come to revise the different portions adopted by the convention to be put into the constitution; we would have the right to strike them out and arrange them in their proper place. I think the convention should declare what matters should be put into the con-

stitution, but I think the question as to where they should be put should be left to the committee on revision, when it revises it.

Mr. HOYT. It appears to me that the necessity for such a provision as this has been so fully advertised this afternoon, that it will hardly be possible for it to escape the attention of the revision committee, and I believe with the gentleman from Albany that we had better strike it out from its place here, leaving it to be incorporated in the more general provision.

Mr. CHAIRMAN. Any further remarks? I suppose it is hardly necessary, but I will state that the motion is to amend section 1, by striking out all after the word "class" in the fifth line of section one. All in favor of the motion will please say aye; contrary, no. The chair is undecided. All in favor of the motion will please rise to their feet—16. Those opposed to the amendment will please rise—9. Sixteen yeas and nine noes. The motion prevails. The secretary will read the next section.

Sec. 2. No municipal corporation shall be organized without the consent of the majority of the electors residing within the district proposed to be incorporated, such consent to be ascertained according to law.

CHAIR. Is there any alteration to section 2?

Mr. POTTER. It strikes me, at least upon the reading of this, that we can express the latter part of this section in a little clearer manner. In order to bring it before the committee, I move by inserting in place of the words "according to law," the words "in the manner, and under the regulations prescribed by law."

Mr. CAMPBELL. Second the motion.

Mr. CHAIRMAN. It is moved that the last three words of Sec. 2 be stricken out and in lieu thereof be inserted "in the manner and under such regulations as may be prescribed by law." Are you ready for the question? All in favor of the proposed amendment will say aye; those opposed no. The amendment has been adopted.

The secretary will read the next section.

Sec. 3. The legislature shall restrict the powers of such corporations to levy taxes and assessments, to borrow money and contract debts, so as to prevent the abuse of such power, and no tax or assessment shall be levied or collected or debts contracted by municipal corporations except in pursuance of law for public purposes specified by law, nor shall money raised by taxation, loan or assessment for one purpose ever be diverted to another.

Mr. CHAIRMAN. Is there any amendment or alteration to Sec. 3?

Mr. PALMER. I desire to ask for a little information from some of these gentlemen who are better informed. Suppose a

city or town should raise too much money—should have an unexpended balance in the treasury that was raised for a certain purpose. This law would seem to prevent them from ever applying it to any other use. I think it ought to be amended in some way so that money raised in this manner might be diverted to some other use.

Mr. BROWN. The gentleman is entirely right in his conception.

Mr. CHAIRMAN. There seems to be no amendment to Sec. 3. The clerk will read Sec. 4.

Sec. 4. No street passenger railway, telegraph, telephone or electric light line shall be constructed within the limits of any municipal organization without the consent of its local authorities.

Mr. CHAIRMAN. Is there amendment or alteration to Sec. 4?

Mr. JOHNSTON. I have an amendment here which I would like to propose, not to Sec. 4, but as another section to be added to this file.

“Municipal corporations shall have the right to acquire water rights by prior appropriation to the use of water for domestic and municipal purposes, and the legislature shall provide by law for the exercise upon the part of incorporated cities, towns and villages of the right of eminent domain, for the purpose of acquiring from prior appropriators upon the payment of just compensation such water as may be necessary for the well being thereof and for domestic uses.

Mr. IRVINE. I would like to hear that resolution read by the clerk, as I could not hear Mr. Johnston very well.

Mr. BURRITT. I would like to ask that the gentleman from Albany, Mr. Brown, read that aloud.

Mr. BROWN. If there is no objection I will read it.
(Brown re-read Johnston's amendment.)

Mr. BROWN. I move to amend the proposed section by striking out the following words in the third line: “from prior appropriators.” Also to strike out the words “for the” in the last line. The reason for striking out the words “from prior appropriators” would be apparent. A city or town might desire to acquire water for its uses and purposes otherwise than from prior appropriators, and if these words are stricken out it will leave it for them to acquire it in any way they can. The whole section seems to me a little awkward.

Mr. JOHNSTON. The section was gotten up with the idea of adding it to another bill, and was very hastily written. The idea of putting in the words “from prior appropriators” was this: We all know that the city of Denver has confiscated the right of using the waters of the South Platte river from prior appropriators, without paying them any compensation therefor. I think that the states ought to have the right to appropriate water not already appropriated, but I think that we

ought to recognize the right of prior appropriators, and if the state wants the water already appropriated let it pay for the same. That was the reason for the insertion of these words.

Mr. BROWN. I am not particularly impressed with the motion that I made, but it was the first that occurred to me upon reading that section. The section will not, in my judgment, as offered, or in the shape it will be if my motion prevails, meet the object that is intended I think by it. It should be revised in other ways. I doubt very much whether a municipal corporation could acquire the right to water by appropriation, unless expressly so authorized by this constitution. Private individuals and private corporations are authorized by law and may be by a general incorporation act to acquire rights of this kind, but I doubt whether municipal corporations could acquire water by appropriation unless authorized so to do by the constitution, either in connection with this matter, or by the proposed act on irrigation. If they can acquire water by appropriation, then this section as proposed would meet the necessities of the situation, if they cannot, it won't meet it.

Mr. BAXTER. I would like to inquire if Rule No. 4 applies while sitting in committee of the whole. If it does I move that it be suspended.

Mr. RUSSELL. Second the motion.

Mr. CHAIRMAN. The chair understands that the committee of the whole cannot suspend a rule of the convention.

Mr. BURRITT. Mr. Chairman.

Mr. CHAIRMAN. The gentleman from Johnson, Mr. Burritt.

Mr. BURRITT. I move that this committee rise and ask leave to sit again.

Mr. CHAIRMAN. Is there a second to the motion?

Mr. BROWN. Does the gentleman from Laramie, Mr. Johnson, withdraw the offered section?

Mr. JOHNSTON. With the permission of my second I withdraw the proposed Sec. 5.

Mr. BROWN. I now wish to offer one in place of it, a part of which is that offered by the gentleman from Laramie, Mr. Johnston.

“Municipal corporations shall have the same right as individuals to acquire water rights by prior appropriation and otherwise to the use of water for domestic and municipal purposes, and the legislature shall provide by law for the exercise upon the part of incorporated cities, towns and villages of the right of eminent domain, for the purpose of acquiring from prior appropriators upon the payment of just compensation, such water as may be necessary for the well being thereof, and for domestic uses.

Mr. JOHNSTON. I move the adoption of Sec. 5.

Mr. SMITH. Second the motion.

Mr. CHAIRMAN. It is moved and seconded that the section as read by the gentleman from Albany, Mr. Brown, be adopted. Are you ready for the question? All in favor of adopting Sec. 5 please say aye; contrary no. Sec. 5 is adopted.

Mr. SMITH. Mr. Chairman.

Mr. CHAIRMAN. The gentleman from Carbon, Mr. Smith.

Mr. SMITH. On looking over Sec. 3, though we have passed it, it strikes me that it is a little awkward yet. I would therefore offer an amendment to that section by addition "except in the event that the money so raised shall not be required or used for the purpose for which the same is raised." Anything of that sort would be likely to put a city or town in a position where, if there was any balance left over, they would have no way of diverting it to any other purpose. With this amendment any money raised for one purpose could be diverted to another, in the event that the money so raised shall not be required or needed for the purpose for which the same was raised.

Mr. PALMER. Second the motion.

Mr. POTTER. I was going to move an amendment to the amendment, and say that the addition be this, "except by authority of law."

Mr. CHAIRMAN. Is there a second to the motion?

Mr. HARVEY. Second the motion.

Mr. POTTER. The reason of that amendment, although I am not wedded to it by any means, is this: that it would leave the matter where the legislature could provide properly this same thing, or make even greater restrictions than this upon the matter. I think it covers the whole scope of the former amendment, and puts it in less words.

Mr. SMITH. I would ask the gentleman if he means that as a substitute for the amendment. If he does that amendment would simply let the gate down and make the entire section void, and open the gate where it is intended to close it up.

Mr. PALMER. I don't think that the substitute for the substitute exactly covers the point, for there is not anything mandatory in this. There is nothing in it to compel the legislature to enact such a law. While that which was proposed and urged by Mr. Smith, if in the constitution there would be no necessity for future legislation on the subject. As it stands, or will stand with the proposed substitute of the substitute, we will have no authority in it compelling the legislature to make such an enactment. I am therefore in favor of leaving it as urged by Mr. Smith.

Mr. CHAIRMAN. The question is upon the substitute of Mr. Potter to the amendment offered by Mr. Smith.

Mr. BURRITT. Do I understand that Mr. Potter offers that as a substitute?

Mr. POTTER. If there is no objection on the part of the committee I would be willing to withdraw that.

Mr. CHAIRMAN. Is there objection to Mr. Potter's withdrawing his substitute? The question is now on the amendment of Mr. Smith to Sec. 3.

Mr. FOX. I think that this section is better as it stands. It will prevent exorbitant levies of taxes for any special purpose by municipal corporations, in excess of the amount needed, who might take advantage of this section by which they could squeeze a greater taxation out of the people, for another purpose. The plan of this amendment is not a good one, and I think the section just as it is will prevent all of these schemes, and therefore I am opposed to the amendment.

Mr. RINER. It seems to me that Mr. Smith's amendment is almost necessary to give this section the effect that is sought to be given it in the constitution. The restrictions upon the power of the legislature are advisable. I think Mr. Smith's amendment is in exactly the form sought to be reached here as a matter of law. Suppose, for example, the city of Cheyenne wants to raise a certain tax for certain street improvements, before the work is begun. It is impossible to tell exactly how much is necessary for that purpose. True, we have our engineer's estimates, but they are not exact, they only approximate the amount, and the city goes ahead and makes the assessment necessary to raise the amount required. Now if the amount raised for that improvement, whatever it may be, should exceed the amount necessary for the construction of the improvement, then, under Mr. Smith's amendment, when the public work for which the tax is raised is completed, and after paying for such, there be found a balance arising from the tax levied for the purpose of raising the fund to complete this improvement, then the city would have the right, under this amendment, to divide up the balance and apply it to other municipal purposes. Now, it seems to me that this is right. Otherwise, the money must lie there unused, there being no provision for returning it to the parties from whom the tax was raised. Under this amendment, after the improvement for which the tax is levied is completed, if a balance exists, it provides a method whereby it may be put to a proper use, to other municipal uses, which it seems to me is proper.

Mr. SMITH. I have nothing to add to what the gentleman from Laramie has just said, but this. With the statute as it is, the legislature can make no provision by which that money can be applied to any other purpose, if there was a surplus. It ties it up there forever, with no way of ever getting it out, "Shall never be diverted to any other purpose," and unless some provision is made for an emergency of this kind now, our legislature would have no authority to pass a law authorizing a city to divert any unexpended balance on hand.

Mr. CAMPBELL. I don't understand as the gentleman from Carbon, Mr. Smith, does, that this money shall lie idle and nothing be done with it. Take for instance appropriations

made for paying government officials of the United States. Congress provides that no part of this shall go to any other fund. Suppose a balance of ten thousand dollars is found at the end of the fiscal year. You don't mean to say that the money so raised for that purpose shall not go back into the treasury of the United States? It is the same here. You appropriate a certain amount of money, say for water works, twenty-five thousand dollars is raised, and only twenty thousand used. What becomes of the unexpended balance? Why, the five thousand dollars goes back into the city treasury, of course. Where else on God's earth should it go? There would be no difficulty about it at all; it would go back into the city treasury, and would be appropriated to some purpose.

Mr. POTTER. The mistake made by my colleague, Mr. Campbell, is this. This section three is not a restriction upon the appropriation of money already raised, but it is a restriction upon the raising of money. With congress it is simply the appropriation of money already raised. This says they shall not raise money except for a specified purpose, and after raised for that purpose, it cannot be diverted to any purpose, nor can the surplus be diverted to any other purpose, but the surplus must remain there idle forever, and the legislature cannot provide, and the state cannot provide to take it out. The treasurer would have use of it for all times. We must of necessity change this section in some way, or a hundred dollars, a thousand dollars which has been inadvertantly raised for a specific purpose, for a special matter that they could not get rid of, that they could not use under any circumstances for that purpose, must remain in the treasury, and the legislature could not authorize them to use it for any other purpose, as this section now stands.

Mr. BROWN. Will the secretary read the proposed amendment.

(Secretary re-read Smith's amendment.)

Mr. BROWN. I would suggest to the mover that three or four words unless "Necessary for the purpose raised," would cover all that was needed. A mere choice of language, that is all.

Mr. BURRITT. I think that a great deal of the trouble which exists in the minds of the members here who are favoring this amendment, arises from the fact that they have not carefully considered what taxation, loan and assessment mean when applied to municipal corporations. I requested that this matter might go over because I was not prepared to aid, to defend, as I would like to, this last clause of this section, nor do I care to enter minutely into the discussion of it now, but I think that that clause is all right just as it stands, and if the members will take the trouble to look up the words loan, taxation and assessment as applied to municipal corporations—they will see that there is none of the rocks ahead of them

that they seem to discover. If that section read, "nor shall money raised for one purpose ever be applied to any other," then it would certainly be subject to the criticism which the gentleman from Carbon, Mr. Smith, makes, but when it is qualified by the words assessment, taxation or loan, I believe that the objection is entirely removed. Now to make that complete, we require in its application a law of the legislature to be enacted under section one of this file. "The legislature shall provide by general laws for the organization and classification of municipal corporations," etc. Leave this to the legislature, and I am sure that the act could be so framed, and the language of that act would be such that no conflict, or any difficulty of this kind could possibly happen. I would ask the gentlemen of the convention what the exact meaning of the words assessment, loan and taxation is, as applied to municipal corporations. An assessment as applied to a municipal corporation is a special tax levied against a special and specific piece of property. In other words, it is a sidewalk tax, a paving tax, and it is never assessed until the exact amount of it is known to a penny, and then it is assessed against the above property. A loan carries with it the assumption of a debt to be provided for, and is intended to cover the funding of a city's indebtedness. Taxation as generally applied to municipal corporations is a tax to be levied generally upon all the property of the city, for specified purposes, specified in the ordinance levying the tax, and prescribed by the general charter of the city. That is so much for the city fund; so much for the general fund, and so on. Now, I take it, Mr. Chairman, that because the city raises a hundred dollars more for the city fund in one year than is needed for that fiscal year, that the necessity for future expenditures in the city will not thereby be stopped. I have gone far enough to give the committee, so far as I am able, without being prepared, the idea of the committee incorporating this section into this file. In brief it is to shut the door against the possibility of the legislature allowing, or a municipal corporation performing, the feat of beating the devil around the stump by raising money that their charter did not allow them to raise for one gested by the gentleman from Carbon, Mr. Smith, is allowed, then we have at least let down one bar to its provisions, and I am afraid, although I am not prepared to say so absolutely, that the entire gate would be left open, and the provision might just as well be stricken from the bill.

Mr. RINER. I move I be allowed another word. Take Mr. Burritt's proposition as to a special assessment. In the city of Cheyenne we have under our charter the right to levy special assessments upon property, according to the city valuation, for raising money for the purpose of constructing sewers. A sewer is to be constructed on Eighteenth street past my residence, a special assessment is made, and my property is as-

assessed \$200 for the improvement. Now, if it should be found that the special tax which I am required to pay should overrun the cost of the sewer, then under this section the city could only put that surplus to the construction of sewers elsewhere, and allow the parties upon the other street to escape their just proportion of taxation. I want this section in some shape so that it goes back to the general fund, and benefits me as well as other people. If the section is left in the shape it is in now the special tax raised for the construction of sewers could only be used for the purpose of constructing sewers. I am not interested in the sewer question except in so much as the sewer passes my property, and I am subjected to a special tax for that purpose. Now, suppose that the levy made upon me is \$200, and sewers should cost but \$175; there is a surplus of \$25. According to this section that could only be used for the construction of sewers in some other part of the town. The purpose as I understand it of the amendment is that that money shall go back into the treasury and be used in the general fund, so that I with every other citizen of the town will get the benefit of it, and not in the construction of sewers for somebody else, but in carrying on the municipal affairs of the city, in which every citizen is interested. If it is to be only used for the construction of sewers somebody gets the benefit of my \$25. Now the city cannot, even on the engineer's estimates, make the levy accurately. Sometimes it is high and sometimes it is low. While usually correct, it sometimes happens that the levy is too high, has exceeded the cost of the sewer a few dollars. Now, as I understand it, the purpose of this amendment is that when the sewer is completed and paid for, if there be a surplus, as has been the experience here, then the city may divide up the same for general municipal expenses, and not devote it to the building of sewers for other parties.

Mr. BURRITT. Will the gentleman from Laramie just answer one question? Is it the practice in Cheyenne to levy a tax for the construction of a sewer before the work is completed?

Mr. RINER. Yes, on the engineer's estimates.

Mr. BURRITT. A very bad practice then.

Mr. RINER. We have to pay for our materials.

Mr. BROWN. I would like to ask Mr. Riner a question. If the city levy an assessment for the construction of a sewer abutting his property, and he is assessed \$200, and the cost of this sewer is only \$175, I would like to ask if he is willing that the \$25 should go into the general fund, and thereby he pay a tax of \$25 more than the man who lives on the next street pays on the same amount of property?

Mr. RINER. That question is very easily explained. When it comes to the general tax, it cuts down the levy for the next year. I certainly would rather it would go there than to some other section of the city for the construction of a sewer for somebody else, from which I would derive no benefit. By this

over assessment going back into the general fund it increases that fund just that much, and it will not be necessary to make the levy so high the next time, and I benefit by that the same as every other citizen. Whereas, if it is to be used for the construction of sewers, it is not going to benefit me one whit, except the sewer that passes my house, and somebody else on some other street gets the benefit and his assessment is made that much lower.

Mr. POTTER. I think this is a very important matter, and I think should receive careful attention. I am not sure that the amendment strikes at the root of the matter, but that there should be a change here in some way should be apparent. The argument made by Mr. Burritt is very plausible, but I would like to make one suggestion in that same connection. We raise here in Cheyenne by taxation money with which to pay the interest upon our water and sewerage bonds, and to pay some of the principal, each year. We know how much we must pay each year. We know how much we must pay each year, so that after the assessment is made and the total assessment is learned, then the tax is levied for a certain number of mills on the dollar, that will, by computation, raise the amount of money required to pay the bonds and interest during the year. Now then the time will come, the time has already come, in the history of this city, when some of these bonds that have been issued will be due, the last of the issue becomes due in 1892. Never after that year will any tax have to be raised, or can any tax be raised, for the purpose of paying these bonds. This much of the city's authority ceases absolutely. Now then, no one yet, I believe, has ever lived to see, and of course it is absurd to say that we can arrive accurately at the exact amount that will be raised from a levy of taxes. Some taxes will become delinquent, some taxes will never be collected, there may be some rebate, there may be some recovered back from the city as being illegally collected. Now then take the year when the last of the issue of bonds that were issued become due, say the one sixth or the one-tenth, whatever it may be, say \$30,000 of the principal, in addition to the interest. Now then the city council orders an assessment to be levied so that they pay this \$30,000 principal, and the interest on the unpaid bonds. Now then a tax of a certain number of mills upon that assessment will raise that money. But suppose for some reason or other the tax is not all collected, and the levy is not large enough to raise that amount. You have got to pay those bonds, and must pay it from that levy alone, but how on earth are you going to do it? You must change this provision in some way, and I think you will all agree with me that some provision should be made by which the excess in any one fund can be diverted by legislative authority or in some other way.

Mr. BURRITT. As the chairman of the committee having in charge this file, I trust the convention will bear with me

just a moment while I make this statement, that it seems to me that these arguments presented by the gentlemen here on my left, Mr. Potter, only go to show that this is not a bad bill but that Cheyenne has got a pretty bad charter, and some bad practices in the way of levying and collecting taxes. If assessments are levied for the building of sewers and sidewalks before they are down, it is certainly a most extraordinary practice, nor do I imagine that my friend Mr. Riner would consent for a moment that \$25 of his hard earned money should go into the general fund of the city. I venture to assert that he would have in a bill against the city for the return of his money, and that if the city did not see fit to return it he would sue for it, and he would beat the city and get his money back with the costs, because the charter that allows any such proceeding as that, that allows a tax to be levied specially, on a special assessment, for an improvement past Mr. Riner's property, to exceed the amount required, is illegal. It is an illegal assessment, it cannot be collected, and if Mr. Riner pays it, he certainly has the right to recover it back. As I understand the object of this convention, we are to frame a constitution without any reference to the faulty and erring legislation of the past, but with reference to the perfect, complete and equitable legislation of the future, and if we are to take for an example, or to be guided by what is, or is not desirable in this matter let us but look at charters that have been granted to cities by past legislatures of the territory of Wyoming, and finish the work out by incorporating into the constitution so much of the provisions of the revised statutes of Wyoming as refer to the municipal charters already granted. Mr. Chairman, we are here to frame a constitution not with reference to the weakness of the past, but the perfection that is desired in the future, and I think that a consideration of the last clause of this section, taken in connection with the bill that is presumed to be passed, to have been passed by the legislature, in Sec. 1 of this act obviate all of the difficulties, which I frankly confess, under the existing state of affairs, unfortunately exist in the city of Cheyenne.

Mr. CHAIRMAN. Any further remarks?

Mr. BROWN. I have listened with a great deal of interest to the remarks made by the several gentlemen who have discussed this question, and I am to some degree persuaded both ways. There is a good deal of force in all of the several positions taken. I realize fully the importance of the suggestions made by the gentleman from Albany, Mr. Fox, because of the experience we have had in our own county. I remember several instances where assessments have been made in the county to pay for, for instance, a judgment against the county. The law requires a special assessment for that purpose. Now, our county commissioners under such circumstances have levied a tax not only sufficient to pay off and discharge the judgment, but have left in the treasury a surplus of from several hundred

to several thousand dollars. Of course this money has been honestly expended, and expended in the payment of the debts of the county, but this proposed restriction is to restrict the action of city trustees in just such matters as this. They should not be tempted because of the looseness of the law to levy a larger tax than is actually necessary for the purpose named. Now, I believe by proper legislation, this clause can be enforced and no harm done to cities or municipal corporations. If the suggestion made by Mr. Potter is a correct proposition, certainly then there would be money lying in the treasury that could not be diverted to any other use, and I desire to call the attention of the gentleman from Johnson to the construction placed upon this clause as argued by himself.

Mr. POTTER. Take the case of a city being compelled to levy a tax to pay a judgment. Do you think that any body of men, even in this enlightened day, could levy such a tax as to raise the exact dollar of the judgment upon any assessed valuation, and collect it? I myself do not think we have reached that stage of enlightenment yet.

Mr. BROWN. I am afraid to say, in answer to the gentleman from Laramie, Mr. Potter, that this could not be done, there is no doubt about it at all, but the question is would we, by the restrictions of this section if amended, be in the position that if there was a surplus it could not be diverted and applied to the payment of any other debt. The object of the tax is to pay a debt. Is it to be supposed that because we have stated in our assessment supposed that because we have stated in our assessment notice that this tax is to pay a certain loan or judgment, or some other form of indebtedness, that the surplus cannot be used to discharge any indebtedness other than the particular one named?

Mr. POTTER. That is what it says.

Mr. BROWN. Is that the construction the section must necessarily have? If it is, I agree with the gentleman from Laramie that it should be changed. The only matter of any importance is as to the proper constructions of the section. I doubt very much whether a court would construe it as indicated by that gentleman. When a tax is levied for the purpose of paying a bonded indebtedness, it is a single form of indebtedness, but there are other debts that might be paid by the surplus if there was any. It seems to me if the section is to have the strict construction indicated by the gentleman from Laramie, it must be amended, or that money must remain forever idle in the treasury; there is no way to get it out. The only question is as to the construction.

Mr. SMITH. There has been so much talk about this matter that I shall not take up the time, but I desire to call attention to one or two questions, or matters. The first is that the rule of construction in the application of laws is a

strict one; we don't get liberal construction in applying laws, The second point is that thus far the debate has been principally on the levying of assessments and the collection of taxes. But this section also provides for the borrowing of money. Now, suppose a town wants to build water works, or sewers, and has to borrow the money, say two hundred thousand, or a hundred thousand, according to the size of the town, for that purpose. It is done on an estimate, and you must borrow enough to pay for it because there will be no other means of paying for it. Now suppose you borrow too much, and there is a surplus. What are you going to do with it? If you are enacting a state law, or a general law, it would be a different thing, but here you are putting a fundamental law into a charter by which you establish a state, and in that you provide that no money borrowed for one purpose shall ever be diverted to any other; that being the case there can be no getting around it. It is true if the law was indefinite, the courts might construe it differently, but here the language is too plain, too clear to put any other meaning into it. I don't care whether you adopt the language of my amendment or not, that is of little importance, but you must amend it in some way.

Mr. CHAIRMAN. Any further remarks? Any suggestions to further amend? The question is on the proposed amendment to section 3. All in favor of the motion will say aye; those opposed, no. The chair is undecided. All in favor of the amendment will please rise and stand until counted. 13 in the affirmative. Those opposed will please rise and stand until counted—12. The motion is carried, and the section is amended. The secretary will read the next section.

Sec. 4. No street passenger railway, telegraph, telephone or electric light line shall be constructed within the limits of any municipal organization without the consent of its local authorities.

Mr. CHAIRMAN. Any amendments to section 4, of the printed bill. The chair hears none. The section stands approved.

Mr. POTTER. I move when this committee arise they report back file No. 58 to the convention, with the recommendation that it be adopted in the constitution as amended.

Mr. SMITH. Second the motion.

Mr. CHAIRMAN. Gentleman, you have heard the motion that when this committee arise they report back file No. 58, as amended, with the recommendation that it be adopted in the constitution. Are you ready for the question. All in favor of the motion will say aye; those opposed, no. The ayes have it, the motion prevails. Gentlemen, the next thing to come before the committee is file No. 57, reported by committee No. 12.

Mr. BURRITT. Mr. Chairman.

Mr. CHAIRMAN. The gentleman from Johnson, Mr. Burritt.

Mr. BURRITT. I move that this committee do now rise and report. The reason I do this is that the report of committee No. 12 covers an important matter, and should be printed for the information of the committee.

Mr. TESCHEMACHER. Second the motion.

Mr. CHAIRMAN. It is moved and seconded that this committee do now rise and report. All in favor of the motion will say aye; those opposed, no. The ayes have it, the committee will now rise and report.

Report of the committee of the whole.

Mr. President:— Your committee of the whole having had under consideration file No. 58, report the same back to the convention with the recommendation that it be adopted as a part of the constitution as amended.

C. P. ORGAN, Chairman.

Mr. PRESIDENT. What will you do with the report of your committee, gentlemen?

Mr. POTTER. If a motion is necessary, Mr. President, I move that the report be received and placed upon the general file for consideration at the proper time.

Mr. PRESIDENT. The convention will perceive that these propositions to be incorporated into the constitution as they stand now amended ought to be engrossed it seems to me before they are finally passed. It seems to me they ought to be put in shape before they are passed upon finally. We have no engrossing clerk, or any provision for having such work done. I just wish to call the attention of the convention to this matter, so they may take such action as may be necessary. As the matter stands now, it will have to go to the revision committee. Is there a second to the motion of the gentleman from Laramie, Mr. Potter.

Mr. JOHNSTON. Second the motion.

Mr. PRESIDENT. The question to be presented to the convention now is upon the passage of this resolution that was considered by the committee of the whole and reported back with the recommendation that it be adopted. The resolution adopting the constitution of the United States. The question before the convention is on the adoption of that resolution. Are you ready for the question? All in favor of the motion will say aye; those opposed, no. The ayes have it, the constitution of the United States stands adopted.

Mr. RINER. I rise for information, because I am not familiar with the rules. It seems to me, however, that matters which are finally passed for incorporation into the constitution should certainly be passed upon by a call of the roll, that we may know who votes, and how they voted. I don't know whether the rules provide for that, but I think it should certainly be done.

Mr. PRESIDENT. Rule 49 provides for this. After being reported the propositions with the amendments thereto by 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 also provides that when such propositions shall have been considered in committee of the whole and amendments thereto have been disposed of by the convention, question shall be on ordering the final reading and fixing the time thereof. The question before the house at this time, it seems to the chair, would properly come under Rule 25, for fixing the time of the final reading. The chair will state that he understands the gentleman from Laramie, Mr. Riner, to raise the question as to the proper way of adoption of the resolution relating to the adoption of the constitution of the United States. The chair is of the opinion that this is not a matter to be incorporated into the constitution, but is in the nature of a resolution adopted by this convention, as a part of its proceedings. The only doubt which exists in the mind of the chair is as to whether the vote on this resolution was properly taken under the rules, Rule 55 provides that the final vote agreeing to each proposition and upon agreeing to the instrument as a whole shall be taken by the yeas and nays, but this does not refer to the passage of resolutions such as we have just passed, but if it is the wish of the convention to vote upon the resolution by yeas and nays, it can be done, but the rules do not seem to require it so far as I can see.

Mr. RINER. I can see that the rules do not seem to require it, but it seems to me that the final action upon all these matters should be in the same manner as on propositions to go into the constitution, and that the roll should be called as to all matters when they are finally acted upon. That would be the better method of proceeding, although I can see nothing in the rules requiring it.

Mr. POTTER. I think we ought to take the yeas and nays upon this, especially as it is one of the requirements of congress that we do adopt the constitution of the United States.

Mr. PRESIDENT. If that is the sense of the convention, and it seems to be, the yeas and nays will be called on the proposition to adopt the constitution of the United States.

The secretary will read the resolution.

(Resolution re-read.)

Mr. PRESIDENT. Gentlemen, you have heard the final reading of the resolution, the question is now upon its adoption. So many as favor the adoption of the resolution will say aye, as their names are called; those opposed will say no. The secretary will call the roll.

(See journal page 48.)

Mr. PRESIDENT. Gentlemen of the convention, the resolution adopting the constitution of the United States has been passed by the following vote: Ayes, 45; noes, none; absent, 9.

Mr. FOX. Would it be in order to make the motion that those who are absent can attach their vote to this question when they appear?

Mr. PRESIDENT. They cannot have their votes attached. Unless they are here and vote when their names are called they have no vote.

Mr. FOX. My idea was to have the vote of every member upon this question.

Mr. BURRITT. Mr. President.

Mr. PRESIDENT. The gentleman from Johnson, Mr. Burritt.

Mr. BURRITT. I move that the further consideration of File No. 58 be postponed until tomorrow.

Mr. ORGAN. Second the motion.

Mr. PRESIDENT. Gentlemen, the question is upon postponing further action on File No. 58 until tomorrow.

All in favor of the motion will say aye; those opposed no. The ayes have it; further consideration of File No. 58 is postponed until tomorrow.

Mr. JEFFREY. Mr. President, I ask the unanimous consent of the convention to present at this time the report of Committee No. 5, reporting matter which they desire to have printed.

Mr. PRESIDENT. The gentleman from Laramie, Mr. Jeffrey, asks unanimous consent to present a report at this time. Is there objection? The chair hears none; the gentleman will present his report. The secretary will read the report of Committee No. 5.

(See journal page 49.)

Mr. PRESIDENT. The clerk will read the substitute.

Mr. BURRITT. I see no reason why this should be read to the convention. I move it be referred to the printing committee and ordered printed.

Mr. TESCHEMACHER. Second the motion.

Mr. PRESIDENT. The chair would call the attention of the gentlemen to Rule No. 51. "All reports of the committees containing matter to be incorporated in the constitution shall be considered in the order in which the reports are made, and upon their introduction and full reading before the convention, such matters to be incorporated shall be laid upon the table, and (when so ordered) be printed." This seems to be the matter that is introduced by the committee, as I understand it, for full reading at this time. Of course, it can be disposed of otherwise, by the action of the convention. Is there objection to the reading being dispensed with at this time? The chair hears none. The question will then be upon the motion of the gentleman from Johnson, Mr. Burritt, to print. All in favor

of the motion will say aye; those opposed no; the ayes have it; the motion to print prevails. Are there any further reports?

Mr. PALMER. I have a report of Committee No. 18.

Mr. PRESIDENT. Does the gentleman wish it read at this time?

Mr. PALMER. I do not, but move that it be referred to the printing committee.

Mr. CAMPBELL. Second the motion.

Mr. PRESIDENT. The motion is to print the report of Committee No. 18. All in favor of the motion will say aye; those opposed no. The ayes have it; the report will be printed.

Mr. ORGAN. I move that we now adjourn until 10 o'clock tomorrow morning.

Mr. BAXTER. Second the motion.

Mr. PRESIDENT. It is moved and seconded that we now adjourn until 10 o'clock to morrow morning. All in favor of the motion will say aye; those opposed no. The ayes have it; the convention will now adjourn.

TENTH DAY.

MORNING SESSION.

Thursday, Sept. 12, 1889.

Convention reassembled at 10 o'clock.

President Brown in the chair.

Mr. PRESIDENT. The convention will please come to order.

Prayer.

Mr. PRESIDENT. The secretary will please call the roll.

SECRETARY. Thirty-nine members present, Mr. President.

Mr. MORGAN. Mr. President.

Mr. PRESIDENT. The gentleman from Laramie, Mr. Morgan.

Mr. MORGAN. I wish to ask that the committee on legislative department be permitted to sit during the day, to finish up important business.

Mr. BURRITT. I object.

Mr. PRESIDENT. Leave can be granted by vote of the convention, but I suggest to the gentleman from Laramie that such motion be not presented until after the reading of the record, which will not take a moment. There might be some suggestions or corrections to be made by the gentlemen who would be absent in the committee. The secretary will read the journal.