Mr. CHAIRMAN. It is moved that this convention now rise and report. All in favor of the motion will say aye; contrary no. The ayes have it; the committee will now arise.

(Report of committee of the whole.)

Mr. PALMER. I move the report be adopted.

Mr. PRESIDENT. It is moved the report be adopted. All in favor of the motion will say aye; contrary no. The ayes have it; the motion prevails.

Mr. TESCHEMACHER. I move we now take a recess until 7:30; I believe that is the hour fixed for the address by Senator Stewart.

Mr. PRESIDENT. It is moved that we now take a recess until 7:30 this evening. Are you ready for the question? All in favor of the motion will say aye; contrary no. The ayes have it; the motion prevails.

SIXTEENTH DAY.

Morning Session.

Thursday, September. 19th.

Mr. PRESIDENT. Convention come to order.

The secretary will call the roll.

Reading of the journal.

Mr. PRESIDENT. Are there any corrections to be made to the journal? None suggested; it will be approved as read. It is so ordered, Mr. Secretary, the journal stands approved.

Presentation of petitions, memorials and propositions.

Mr. HOYT. I have two propositions here in the nature of declarations, which as they are in my handwriting I will read.

(Reading of Hoyt's propositions.)

Mr. PRESIDENT. If there is no objection the propositions presented by the gentleman from Albany, Gov. Hoyt, will be referred to Committee No. 1, on preamble and bill of rights. The chair hears no objection, and it is so referred, Mr. Secretary. Any further propositions?

Reports of committees.

Mr. TESCHEMACHER. Committee No. 19 desires to make a report.

(Presentation of report of Committee No. 19.)

Reports of special committees. There being no special rereports, we will now proceed to the final readings of propositions.

Mr. HAY. I move that rule four be suspended. It is pretty hard to sit here all day without any of the comforts of life.

Mr. REED. Second the motion.

Mr. PRESIDENT. It is moved that rule four be suspended. Is there objection? The chair hears none. Rule four is suspended for the morning sesson.

Gentlemen, I have a communication from a former resident of Wyoming, again calling our attention to the name that should be adopted as the name of the new state. If it is not otherwise ordered by the convention it will be laid on the table with the other communication upon the same subject.

Mr. TESCHEMACHER. I move out of respect to the old resident the matter be referred to Committee No. 6.

Mr. PRESIDENT. It is moved that this letter be referred to Committee No. 6. Are you ready for the question? All in favor of the motion will say aye; contrary no. The ayes have it; it is so referred.

Mr. JOHNSTON. Committee No. 8 have a report to make.

Mr. PRESIDENT. The report of Committee No. 8 will be received and read.

Mr. BURRITT. I don't think that it is necessary to read it. The report is exactly File 57 as printed, with a change in the first section, and one additional section added.

Mr. PRESIDENT. There were some amendments made by the committee of the whole to the proposition. Those were not incorporated as I understand it.

Mr. BURRITT. The committee did not understand that the committee of the whole were considering this for the purpose of placing any restrictions upon the irrigation committee. It was brought before the committee of the whole in order that the irrigation committee might receive the advice of the members. That having been done we have agreed upon this substitute which we believe is the proper thing.

Mr. PRESIDENT. The report will be placed upon the general file. Any further reports of committees?

Mr. PALMER. I would ask leave at this time to introduce a proposition.

Mr. PRESIDENT. Is there objection to the introduction of a proposition by Mr. Palmer at this time? The chair hears none and the proposition will be presented.

SECRETARY. File 82, by Mr. Palmer.

(Reading of the file.)

Mr. PRESIDENT. It will be referred to the committee on labor unless otherwise ordered by the convention. It is so ordered, Mr. Secretary. Gentlemen, the files that were reported as correctly engrossed did not have the endorsement of the file on the back, and they have been sent to the engrossing clerk to put that on. As soon as returned we will take up the files for final reading.

Mr. TESCHEMACHER. The fault is all mine. I returned three or four files before just this way, supposing it was the duty of the secretary to put that on. And I sent them all in that way to save time.

Mr PRESIDENT. The question comes on the final reading of the file. The first presented for your consideration is File No. 68, on suffrage. Is it the wish of the convention that the file be first read before putting it on its final passage.

Mr. CAMPBELL. I move it be read section by section.

Mr. PRESIDENT. All in favor of reading the file section by section will say aye; contrary no. The ayes have it; the file will be read by sections.

(Reading of Sec. 1.)

Mr PRESIDENT. Sec. 1 is now before you. What is your pleasure, gentlemen? No amendments are suggested; Sec. 2 will be read.

(Reading of Sec. 2.)

No objection to Sec. 2; Sec. 3 will be read.

(Reading of Sec. 3.)

Mr. BAXTER. I would like to call attention to one word in Sec. 3. It seems to me that the word "polls" should be used instead of the word "electons."

Mr. PRESIDENT. Does the gentleman make a motion to amend?

Mr. BAXTER. Yes, I will move that the word "elections" in the second line of Sec. 3 be stricken out and the word "polls" substituted.

Mr. PRESIDENT. It is moved to amend by striking out the word "elections" in the second line of Sec. 3, and inserting in lieu thereof the word "polls." Are you ready for the question? All in favor of the amendment proposed by the gentleman from Laramie, Mr. Baxter, will say aye; contrary no. The noes have it; the motion to amend is lost.

Sec. 4 will be read.

(Reading of Sec. 4.)

Any amendments to Sec. 4? The chair hears none; Sec. 5 will be read.

(Reading of Sec. 5.)

Mr. CLARK. I move to amend Sec. 5 by adding to the section "or shall have legally declared within this state his intention to become such, at least one year prior to the election at which said elector seeks to cast his vote."

Mr. PRESIDENT. Will the gentleman present his amendment in writing? While waiting for the amendment suggested to Sec. 5 we will pass on to the consideration of other sections.

(Reading of Sec. 6.)

No objection to Sec. 6; Sec. 7 will be read.

(Reading of Sec. 7.)

No amendments to Sec. 8; Sec. 9 will be read.

(Reading of Sec. 9.)

Mr. CLARK. I move you, Mr. Chairman, that Sec. 9 be stricken out.

Mr. CAMPBELL. Second the motion.

Mr. PRESIDENT. It is moved and seconded that Sec. 9 be stricken from the bill. Are you ready for the question?

Mr. CLARK. Unfortunately, perhaps, for myself, and fortunately for the convention, I was absent when this matter was discussed, and probably the views I have on the subject are substantially those that were stated by gentlemen who feel the same as I do in regard to the wisdom, and in regard to the justice of inserting an educational test as a qualification for an elector. In speaking of this with some gentlemen of the convention, I am met by the argument that the educational test is nothing, it does not apply until 1894; that it shall not apply until every voter in the territory shall have had an opportunity to acquire the necessary education, if when you use the term education you mean such as will enable him to read the constitution of the state. I take the ground, Mr. President, that in making our qualifications for voters, we should make no educational qualifications, and the ability to read the constitution of the state or the constitution of the United States, I take it is purely an educational qualification. The only qualificaton I believe in, that I think we ought to have, is such a qualification as goes to the manhood of the voter. I myself cannot go into my county, and I am sure that the gentlemen from Sweetwater cannot go into their county, I am speaking from personal experience and observation, and I believe other gentlemen could not go into their counties and present to the people for their adoption a constitution that would virtually disenfranchise citizens who have been voting for twenty years, and citizens counted among the best in their counties.

Mr. TESCHEMACHER. Before he goes any further, I would ask him to read the next section of the bill.

Mr. CLARK. I have noticed and shall speak of the clause which says this shall not apply to present citizens of the territory of Wyoming. The man I will mention now, I mention simply by way of argument. I would ask the gentlemen if they can go before their people and ask for the adoption of a constitution that would prevent Phillip Mass voting in the state elections? If it prevented Philip Mass from voting it prevents other men of equal ability, of equal natural education, of an education higher than the education of schools if he comes in this year or next year, or the year after. I take it upon the ground that the highest and best knowledge is not gauged by a man's ability to read a particular document, and as I said at the beginning we should gauge qualification not by his ability to

read or write, but we should gauge it by the worth of the man, or the worth of the woman, who seeks to exercise the elective franchise. This clause prevents a man who has made himself known in a community, and is possessed of all that knowledge that goes to make up a good man, this prevents him from casting his ballot, while by his side is a man who is learned in all the knowledge of the schools, who can write your name as well as you can write it yourself, and is very apt to write your name as well as you can write it and without your knowledge and consent, it gives him the right to vote but disfranchises the man who has that higher and better education and worth. I am opposed now and always to any limit of this kind upon the elective franchise.

Mr. HOPKINS. I should like to ask Mr. Clark how many this would disfranchise besides these honest people?

Mr. CLARK. I believe it would, if carried out to the letter, disenfranchise three-fourths of the members of this convention. This perhaps needs a little explanation. If it had been the constitution of the United States I would have said disenfranchised every man, that is, read the constitution to know what it means, except two or three who have been able to read it after years of study and knowledge gained in the reading of it, I believe three-fourths at least of the members of this convention would not be able to read the constitution of the United States in the broadest sense of the term.

Mr. CAMPBELL. I call for the ayes and nays on this amendment.

Mr. PRESIDENT. The question is on the striking out of File 68, Sec. 9. The ayes and noes are called for. Is there objection to the vote being taken by the ayes and noes? The chair hears none. So many as are of the opinion that Sec. 9 be stricken out of File 68 will say aye as their names are called; contrary no. The secretary will call the roll.

Mr. BAXTER. I wish to say in explaining my vote on this particular section, up to this time there is no provision in the bill by which citizens of the territory at the time of the adoption of the constitution shall be exempted from the provisions of Sec. 9. With the understanding that such a section will be adopted, and that no citizen of the territory at the time of the adoption of the constitution will be effected I should vote aye.

Mr. PRESIDENT. The convention cannot inform the gentlemen only on the amendment to strike out. The gentleman has the right to explain, but having made his explanation, his vote is demanded.

Mr. BAXTER. With that explanation I vote no.

Mr. HOLDEN. I desire to say this. That taking into consideration the fact that there are a few citizens now resident in

this territory or who are likely to become citizens of this territory, who will be just exactly in the condition of the gentleman named by my colleague, Mr. Clark, yet feeling that if I was in the same condition as Mr. Mass referred to, possessing his intelligence, which I very much doubt, my being in possession of that amount of intelligence, and realizing that my vote, if I were permitted to enjoy it, was liable to be counteracted by the votes of thousands of the ignorant horde, I would stand back with my hands folded in order that the greatest good to the men and women who have helped to make this territory a great commonwealth, might be accomplished, and for that reason I would vote no.

Mr. BAXTER. My friend here on the right discovered I was in confusion before I did myself, and to make myself clear I want to say this. In the absence of any provision adopted at this time exempting citizens who are here now, I am unwilling to put this in the constitution, and I find that I did not understand the way the question was put. I meant to vote aye.

Mr. PRESIDENT. The gentleman from Laramie, Mr. Baxter, desires to change his vote from no to aye. Is there objection? The record will show that Mr. Baxter voted aye.

Gentlemen, the vote on the proposed amendment is as follows:

Ayes, 15; noes, 26. The amendment is lost.

The secretary will read the next section .

(Reading of Sec. 10.)

Mr. RINER. In order to be consistent I move to strike out Sec. 10.

Mr. PRESIDENT. The gentleman from Laramie, Mr. Riner, moves to strike out Sec. 10. Is there a second to the motion?

Mr. CAMPBELL. Second the motion.

Mr. PRESIDENT. The question is on the amendment to File 68, to strike out Sec. 10 as read. Are you ready for the question.

Mr. COFFEEN. I don't desire to occupy the time and only wish to say that as we have one section now consistency demands of those who favored the other section that we also retain this section. I shall therefore sustain this section.

Mr. RINER. I don't care to discuss the proposition at length, and I don't know that I am especially opposed to an educational qualification for the right of suffrage. However if we are to have any such qualification let us have it. Now there are in this territory today and will be at the adoption of the constitution at least a thousand or fifteen hundred votes that will be cast for the adoption of this constitution, who are unable to read this constitution, and why if you are going to have an educational qualification for the right of suffrage, why except these? If it is necessary that a man or woman must read this

constitution in order that he may enjoy his rights as a citizen of the United States, I ask in the name of reason why should that prohibition not apply to those who are already in that condition? I cannot for the life of me see why that should be any reason, that simply because a man at the adoption of this constitution happens to be located within the territory of Wyoming, if he is unable to read the constitution, why he should enjoy the right, while the man who comes in here after the day of election shall not. I say the thing is inconsistent and unreasonable. If we are to have an educational qualification to exercise the right of suffrage, let us have it, and have it now, and make it apply to everybody who at the adoption of this constitution is unable to read the constitution.

Mr. HOYT. I can answer the gentleman in just a word. The reason the provision does not apply to those now in the territory is because they came here when there was no restriction, they have acquired property here, and this right is in the nature of a vested right, with them, so it would not be right to take it from them.

Mr. RINER. I say there can be no vested right in the right of suffrage.

Mr. HOYT. I said in the nature of a vested right.

Mr. RINER. Let us have a qualification pure and simple, and have it now if we have it at all. For myself I cannot see the difference, and can see no reason why it should not apply to the man already here, and shall apply to the man who comes here later on. I apprehend there is another question, which if the truth was known, lies at the foundation of this section, when you submit your constitution to the people you are giving to fifteen hundred people who cannot read and write the right to vote, and say that the fifteen hundred who come later on shall not have the right to vote. Is there anything inconsistent in that? I say there is most certainly. It is for the purpose of allowing fifteen hundred men, and I don't think that I have it too high, who are unable to read, to say we adopt this constitution, and we cut off the right of suffrage from those who come hereafter in the same condition that we are. I say if we are going to have an educational qualification let us have it and have it now, and let those who are able to read say whether or not we shall deprive those unable to read of the right of suffrage, and not let fifteen hundred men who are unable to read say that fifteen hundred other men shall not have the same privilege. The purpose of the section is to help secure the adoption of the constitution, and I say it is unfair.

Mr. PRESTON. The only reason I see for the adoption of this section is that it is a kind of electioneering scheme to catch the fifteen hundred votes here now who cannot read. For that reason I am opposed to it.

Mr. MORGAN. I voted to strike out Sec. 9 because I did not believe in, nor want to have a qualification of that kind. I shall favor Sec. 10 as read because I shall get a little of what I want by this.

Mr. CAMPBELL. I stand in about the same position as Mr. Morgan. I believe in taking one-half if you cannot get the whole, so I will vote against striking out that section.

Mr. TESCHEMACHER. I will rise to deny that this is an electioneering scheme, it is an historical scheme, and dates away back to a time when electioneering methods as we know them now in various parts of the territory, were never thought of. This very same provision goes back to the adoption of the constitution of the state of Maryland, adopted in the year 1820, in the good old days when our fathers were perfectly honest. The same thing appears in the constitution of Connecticut, which was adopted in 1855, that was also a few days before the Republican party was founded, and before all these new and various methods were discovered.

Mr. CLARK. Do you endorse the constitution of Connecticut?

Mr. TESCHEMACHER. I have never read it.

Mr. CLARK. You don't want to.

Mr. TESCHEMACHER. I won't go into any more historical questions except to say that it is a well known fact that whenever the suffrage has been granted, whether as a privilege or a vested right, I don't care what you call it, that priviledgs has never been taken away. The Republican party granted that privilege to a great many people that were ignorant so far as reading and writing were concerned, and the Republican party has seen where they made a mistake. Mistake or not it has never been taken away, and never will be taken away, and the same defense has been made on this very floor in regard to the female suffrage question that it having been once granted to them we do not propose to take it away. The suffrage once granted is never taken away, and that is the reason this clause stands in this article as reported by the committee. Not only do we allow all men who cannot read, but are at present electors in this territory, to vote on this constitution, and to vote in this state, but we have provided further that only American citizens shall vote in this state; that nobody for the next five years shall be deprived of that right, where he has declared his intention to become a citizen, the present law giving a man who has declared his intention the right of suffrage, this gives him five years to qualify. I think on the face of it any such restriction is not an electioneering scheme.

Mr. BARROW. I don't pretend to know anything about the question, but I agree with Mr. Preston, this is nothing but

an electioneering scheme, I believe the object is to get the approval of the constitution from the thousand voters we have with us now who are unable to read or write, but as I believe it is a good electioneering scheme I shall vote for the section.

Mr. SMITH. It is unnecessary to enter into any argument upon this proposition, it has been gone over before, and I think the members understand it. I just want to say this about the fifteen hundred people who cannot read this constitution. It has been referred to as a political scheme, the persons who have been referred to is just the element that we complain of in Carbon, Sweetwater and Uinta counties. Now for these people I will say that the percentage who cannot read is no greater than among lots of others, they cannot read it in the English language, but if you put it in their language they can read it as well as we can, so it don't injure them at all so far as their qualifications are concerned, and they will vote just as well as other people will.

Mr. CHAIRMAN. Are you ready for the question? The question is on the motion to strike out Sec. 10.

Mr. CLARK. I ask that the section proposed to be stricken out be read before the vote is taken.

Mr. PRESIDENT. If there is no objection the section will be read.

(Reading of Sec. 10.)

The question is on striking out Sec. 10 as read. So many as are of the opinion that Sec. 10 be stricken out.

Mr. CAMPBEL. I call for the ayes and noes.

Mr. PRESIDENT. The gentleman calls for the ayes and noes.

Mr. PRESTON. As a matter of information I would like to ask whether the constitution can be translated by signs.

Mr. PRESIDENT. The gentleman is out of order. Is there objection to the ayes and noes being taken? The chair hears none. The ayes and noes will be taken by unanimous consent. The question is on striking out Sec. 10 of File 68 as read. So many as are of the opinion that the section should be stricken out will say aye as their names are called; those of the opposite opinion will say no. The secretary call the roll.

Roll call.

Mr. MORGAN. Before the vote is announced I think it is right first to have the list read over, to see if there is any mistake.

Mr. PRESIDENT. Is it the desire of the convention to have the call read, showing the vote of each member before the result is announced? It will be read tomorrow in the journal.

Mr. MORGAN. If so, then I don't think it necessary to have it read now. My idea was simply to have any mistakes corrected.

Mr. PRESIDENT. The chair asks is there objection to the roll being read?

Mr. REED. As the vote has been once taken, I don't see any reason for going over it again; it seems to me that is is only taking up time.

Mr. PRESIDENT. The vote will be announced. Gentlemen, the vote on the motion to strike out is as follows: Ayes, 5; noes, 36. The motion to strike out is lost. The secretary will read the next section.

(Reading of Sec. 11.)

The chair hears no amendment suggested to Sec. 11. Is there any?

Mr. CAMPBELL. I would like to ask if there is anything in this election report which provides that the ballots shall all be printed on the same kind of paper. Inasmuch as I have not got a copy of the supplementary report, I don't know what is in it.

Mr. COFFEEN. As the author of that section I will say that there is none that they should be on the same kind of paper and on the same size of paper. I thought we could safely trust that to the legislature, but if the convention thinks it is not safe we can of course put it in.

Mr. PRESIDENT. The chair hears no amendment offered to Sec. 11. The secretary will read Sec. 12.

(Reading of Sec. 12.)

Mr. PRESIDENT. Is there any objection to Sec. 12? The chair hears none. The section stands approved as read.

Mr. CLARK. I now wish to present my amendment to Sec. 5.

Mr. PRESIDENT. The secretary will read the amendment proposed by the gentleman from Uinta, Mr. Clark.

SECRETARY. To amend Sec. 5 by adding to the section "or shall have legaly declared within this state his intention to become such at least one year prior to the election at which said elector seeks to cast his vote."

Mr. HOPKINS. I think this section is a contradiction of one already passed, not in the printed bill, but one of the other sections.

Mr. PRESIDENT. The question is upon the amendment as offered by Mr. Clark, of Uinta. All in favor of the amendment will say aye; contrary no. The noes have it; the amendment is lost. Any other amendments to be offered to the bill? I would call attention of the members to the last clause or sentence in Sec. 9, "this section shall not take effect until July 1st, 1894." It seems to me that Sec. 10, "Nothing herein contained shall be construed to deprive any person of the right to vote, who has such right at the time of the adoption

of this constitution," leaves that matter entirely safe. It adds no force or effect to the bill, and it seems to me it might as well be stricken out.

Mr. CAMPBELL. I suppose the idea was to give the people who can't read the constitution of Wyoming until 1894 to study.

Mr. HOLDEN. It seems to me that the last line of Sec. 9, ought to be stricken out, and for that reason I move we strike out that provision which says it shall not take effect until 1894.

Mr. PRESIDENT. The motion is to strike out the last sentence of Sec. 9. Are you ready for the question?

Mr. HOLDEN. It seems to me that the right of all electors now residing in this territory are amply secured under other provisions, and I think we might as well hang this notice out at the present time, and declare in emphatic terms that we don't want any more of these ignorant people, and if they come they must be subject to this provision; I think we ought to strike that provision out.

Mr. HOYT. I simply want to call attention to the difference in the kind of qualification. Sec. 5 relates to citizenship. Sec. 9 refers to the educational qualification; relates to their ability to read. Now I am in favor of its applying to the educational qualification, that they might have time to qualify, to learn to read, but on the other side it seems to me that the same necessity does not exist, but in order to make the two sections consistent, it seems to me that it might be well to begin Sec. 5 with the words "After July 1st, 1894," so that there will be no question about it.

Mr. SMITH. I just want to call attention to this. In Sec. 10 we say after five years none but citizens shall have the right to vote, and if you strike out this clause under the motion of the gentleman from Uinta, why you put the educational qualification in effect immediately, and I don't think it ought to be immediately. The five year limit in the other clause refers to the citizen qualification, and not to the educational qualification at all.

Mr. PRESIDENT. The question is on the motion to strike out the latter part of Sec. 9, "This section shall not take effect until July 1st, 1894." All in favor of the motion will say aye; contrary no. The chair is in doubt. Those in favor of striking out will rise and stand until counted—19. Those opposed will rise—18. The motion to strike out prevails. Any further amendments to be offered to File 68? Is there objection to the file being placed upon its final passage? The chair hears none. File 68 will now be finally read and put upon its final passage.

If the convention desires to further amend before final reading, it can be so amended. The file is still before the house for amendment.

Mr. SMITH. I move that Sec. 9 as amended be stricken out. I make this motion for the purpose of getting on the record that the strisking out of the latter clause puts the educational qualification in force at once, and I object to that.

Mr. TESCHEMACHER. I rise to a point of order. That amendment has already been made to the bill and decided in the negative. The same amendment cannot be made twice.

Mr. SMITH. The section has since been amended.

Mr. PRESIDENT. The point of order is not well taken. It is moved that Sec. 9 as amended be stricken out. Are you ready for the question?

Mr. SMITH. I just wish simply to state my reason for it. As that section stands the educational qualification will immediately go into effect. I take it you cannot get any other construction out of it. With that clause stricken out your educational qualification goes into effect on the adoption of this constitution, because the next clause refers to a different matter entirely.

Mr. HARVEY. I voted in favor of striking out. I think the section as amended works an injustice to the people who are already here.

Mr. PRESIDENT. Gentlemen, I think my learned friend from Converse was never worse mistaken than when he says that this in any wise affects the substance of this bill as it was originally presented, and before amendment. Sec. 9 reads "No person shall have the right to vote who shall not be able to read the constitution of this state." The provisions of this section shall not apply to any person prevented by physical disability from complying with its requirements. Sec. 10 says: "Nothing herein contained shall be construed to deprive any person of the right to vote who has such right at the time of the adoption of this constitution, unless disqualified by the restrictions of Sec. 6 of this article." And it don't matter if this constitution goes into effect at once, it does not disqualify any man that cannot read, and no such construction can be reasonably put upon the constitution if this goes into it. The first part of Sec. 10 settles the whole question as to every man now in Wyoming, or in Wyoming at the time of the adoption of the constitution. The only effect that this clause could possibly have would be to suspend the operation of this clause as to a man coming into the state between the time of the adoption of the constitution and the time named in the section, and it can have no other effect. I take it that it is not the wish of the gentlemen of this convention that we open the doors of ignorance for a term of years. By keeping in this part, this one

phrase or sentence of the preceding section, it will hold open the doors to any ignoramous that would not have the right to vote if the section was enforced. Striking it out relieves us of that, and makes the whole clause reasonable and consistent. One other thing. We say we are going to adopt the constitution. We propose to submit it to the people whether it shall go into effect or not; could we expect them to vote for it, if after the adoption of this constitution they are to be deprived of their right to vote? It seems inconsistent it seems to me to say the least.

Mr. SMITH. I don't care to go into any argument of this at all. You all know as well as Judge Brown or myself that he has not changed the reading of these two sections at all; they refer to different matters, but the first part of the section makes the sense as to that and not as to this, but leaving this sentence out it will receive a strict construction and the two sections stand in conflict.

Mr. BROWN. There can be no misconstruction about this and there is none, and the only inconsistency there can be exists in the mind of my friend.

Mr. CONAWAY. I expressed my views upon this question raised for the second time the other day, but since the discussion has reached the point it has I desire to place myself on record as protesting against the idea that the men who cannot read are necessarily ignorant men. We know it has been admitted by gentlemen on all sides of this proposition that we all know and are acquainted with good citizens, efficient men in different branches of business who have the misfortune, and not the fault, to receive no education whatever. If our county has raised such men in the past, it may raise them in the future. If the principle is so defective and liable to work such wrong as to make it necessary to suspend it for five years, it may be necessary to suspend it longer, and I am very glad to have an opportunity to put myself on record as opposed to the principle. Now, gentlemen, let me occupy your time for one moment more. It is admitted on all hands that such men as Philip Mass should not be disqualified. My friend from Fremont county will admit that it would be a great evil to disqualify such a man as James Smith, of South Pass. What less wrong, what less evil would it be to disqualify those who live just over the line upon the south, or over the line in Montana, and should want to move here. The principle is wrong, and therefore I shall vote as I always voted to strike out this section entirely.

Mr. HARVEY. If I understand the gentleman from Carbon he is not opposed to the principle, but he thinks an inconsistency exists in the two sections. If it does, it seems to me that the revision committee can call it to the attention of the

house and have it corrected. I think this convention can leave it to the committee to correct the discrepancy if it exists I am not quite clear in my own mind as to this myself.

Mr. MORGAN. I have voted twice to strike out Sec. 9 because I do not believe in the principle. I voted to keep in the latter part of this section because it postponed this qualification taking effect until 1894. I would like to make it fifty years instead of five. It seems to me that last clause was inserted as a notice to people who are coming here in the future. It gives them time to qualify by learning to read, and I should like to see it left in.

Mr. CLARK. I voted against the amendment offered by the gentleman from Laramie, because as I said if I could not get all that I wanted, I would take what I could get, but now that you have amended this and as it stands now I shall not even get half a loaf, I am in favor of the amendment offered by Mr. Smith of Carbon.

Mr. CAMPBELL. As I voted with the prevailing side I believe I have a right to move a reconsideration of the vote to strike out this '94 clause, and if in order I move a reconsideration in order to bring this matter to a vote.

Mr. COFFEEN. There is no necessity for reconsidering the vote, as this section has been amended and is not in the same condition as when the vote was taken.

Mr. PRESIDENT. The vote will be taken on the motion to strike out all of Sec. 9, as amended. Are you ready for the question?

Mr. CLARK. I call for the ayes and nays on that question.

Mr. PRESIDENT. If there is no objection the secretary will call the roll.

Roll call.

Mr. PRESIDENT. Gentlemen, the result of the vote is as follows: Yeas, 15; nays, 26. The noes have it; the motion to strike out is lost.

Mr. CAMPBELL. I move a reconsideration of the motion to strike out the last part of Sec. 9.

Mr. COFFEEN. Second the motion .

Mr. PRESIDENT. Gentlemen, you have heard the motion, a reconsideration of the vote has been moved. I sincerely hope the vote will not be reconsidered.

Mr. COFFEEN. One thing I wish to call attention to in this connection. There are persons within this territory who are minors, growing up, who within five years will be qualified, and it is in consideration of these minors that are nearly of age that I shall vote to reconsider the clause which will guarantee to the whole people of Wyoming an opportunity to qualify under this bill by the year 1894.

Mr. PRESIDENT. Gentlemen, you have heard the motion. All those in favor of a reconsideration will say aye; contrary no. A division is called for. All those in favor of the motion to reconsider will please rise—15; those opposed—26. The motion to reconsider is lost.

Mr. CAMPBELL. I would ask for the reading of the section in relation to registration. I mentioned this once before, and the more I consider it the more convinced I am that that section is wrong. I move to amend by—

Mr. TESCHEMACHER. I rise to a point of order. That section cannot be amended. The vote upon it has been taken and finally passed and no amendment to it can be brought up again.

Mr. CAMPBELL. It will disfranchise one-half the persons in the territory of Wyoming, as it stands, but if you are willing to go upon record with it that way, I can stand it if you can.

Mr. RUSSELL. I would like to state that as this is now I can see a chance for a great deal of wrong in the use of the ballot with this registration clause and the other one already passed. I mean the educational clause; there may be a great many good citizens in mining camps who wish to vote and vote right. Now it would be possible to appoint registers that might wish to influence the vote, and when these men come to vote they might make them read the constitution, and they might be able to read it just as good as any man here on this floor, but through some little incompetency, through some little mistake, he might make in his reading they might prevent him from voting. I think this is wrong and will work a great hardship throughout a good many counties in the state, that is how I feel about it.

Mr. COFFEEN. I do not believe the point of order raised by the gentleman from Laramie is well taken. Until we are ready to vote any part of this bill is subject to amendment, and I also believe that the section on registration as it now stands may disfranchise many men from voting who may be absent or unable to register at the time specified, and I belive they ought to have the opportunity to make a proper affidavit as to their qualifications and why they failed to register, and that evidence should be received, and they should be allowed the privilege to vote if they can show good and sufficient reason for their failure to register. I am in favor of amending this section.

Mr. PRESIDENT. The section is subject to amendment. Are there any suggestions to be offered?

Mr. POTTER. I believe we can fix this without striking out any of it. I believe the first part is all right; that no one should be allowed to vote unless registered according to law, but I think we should add the following:"Unless the failure to

register is caused by sickness or absence, for which provision shall be made by law." I move to insert this after the words "according to law" in that section.

Mr. PRESIDENT. Gentlemen, you have heard the motion. Are you ready for the question? All those in favor of the amendment offered by the gentleman from Laramie will say aye; those opposed no. The ayes have it; the section is so amended. What is your pleasure, gentlemen, as to File No. 68?

Mr. HAY. I move it be put upon its final passage and the vote taken.

Mr. PRESIDENT. Gentlemen, it moved that File No. 68 as now amended be finally read and put upon its final passage. All in favor of the motion will say aye; contrary no. The ayes have it; the motion prevails. The file will be read at length as amended.

(Final reading of File 68.)

The question is on the final passage of the file. All in favor of the motion that File No. 68 be adopted as a part of the constitution will say aye as their names are called; those of the contrary opinion will say no. The secretary will call the roll.

Mr. CAMPBELL. I merely wish to say again that I must protest against this educational qualification, which I believe is all wrong, but inasmuch as this file contains so much good, I vote aye.

Mr. CLARK. I rise to explain my vote. There is a good deal that I would be glad to support, particularly Sec. 1, of this file, but inasmuch as I believe this discriminates against men who have as much right and are as capable of exercising the elective franchise as any gentlemen upon this floor, I am constrained to vote no.

Mr. CONAWAY. There are a good many good things in this bill, especially Sec. 1, and inasmuch as my vote on this bill will not effect that section which gives to women the right to vote, and as I consider this bill contains more evil and wrong than good, I vote no.

Mr. PRESTON. I desire to explain my vote. Inasmuch as Sec. 9 will deprive some citizens of the United States that intend to remove to Wyoming of having an equal voice in the affairs of this country, I vote no.

Mr. POTTER. I ask to have Mr. Palmer vote on this file.

Mr. PRESIDENT. Mr. Palmer will answer to the roll call.

Mr. PALMER. I desire to explain my vote. I am opposed to woman's suffrage, but there is so much good in that bill I vote aye.

Mr. PRESIDENT. Gentlemen, your vote on File 68 is as follows: Ayes, 30; noes, 12. By your vote you have adopted File 68 as amended as a part of the constitution of Wyoming.

File 68 will be referred to the committee on revision.

The question is now on the final reading of File 70. In order that the convention may be fully informed of the contents of the file, it will be read at length.

(Final reading of File 70.)

Mr. CAMPBELL. I have no amendment to make, but I would like to say a few words to the convention before this is put upon its final passage.

Mr. PRESIDENT. Is there any amendment to be offered to the file? If there are no amendments to be offered the gentleman may proceed.

Mr. CAMPBELL. I would like to say to this convention that this is the first time I have read the bill. This bill, if it passes, introduces a new element in the relation of master and servant, and I take it that if it is passed no corporation or person can afford to engage in any business whatever. The doctrine of master and servant is pretty well defined, the courts are getting away from the rule further every year and giving it a more liberal construction in favor of the servant, and against the master, and I take it that any provision that goes to the extent that this goes, would make it impossible for any railroad company or any corporation to do business within the state of Wyoming without going into absolute bankruptcy. It says that "it shall be unlawful for any person, company or corporation to require of its servants or employes as a condition of their employment or therwise, any contract whereby such person, company or corporation shall be released or discharged from liability or responsibility on account of personal injuries received by such servants or employes while in service of such person, company or corporation, by reason of the negligence of such person, company or corporation, or the agents or employes thereof, and such contracts shall be absolutely null and void." It means this, if anything, if a section man working upon a railroad is injured by another section man, that the company will be responsible for that injury. All that a corporation should be held to, and they should be held strictly to that, is that they should be held responsible for the injuries of a servant not in the same line of employment, or responsible for the negligence of such servants as are placed above the other servant in employment, and in which the inferior servant is bound to obey the instructions of the superior servant. That is as far as you should go, and not hold them responsible for the injury of one servant to another in the same line of employment. I will go a little furth-

er to make myself clear. I take it that a railroad company should be responsible for the injuries which a section man receives by reason of the negligence of the dispatcher; it should be responsible for the injuries of a section man by reason of the negligence of the train master, or the road master, or I will go a little further, by reason of the negligence of the foreman in charge of that particular gang of men, but I don't think that any company should, or any individual should, be held liable for the injuries caused by one working alongside of him in the same employment. On this question I was enlightened yesterday. After this matter came up, I made a casual inquiry of one of the officials of our railroad company here, and the amount that is already paid by corporations, especially by the railroad corporation that runs through the lower part of this territory, is enormous, the amount that they already have to pay out by reason of the negligence of servants and if you adopt this provision, I don't see how any railroad company can do business within this territory, and I would like to hear from persons who are more familiar with the question than I am, if they think my construction is very unfair. I must say that I believe in holding masters for the injuries that are caused to their servants by reason of the negligence of those above them, but I don't believe in holding them responsible for the injuries caused by those within the same line of their employment.

Mr. BROWN. Does this section or proposition propose to do anything except prevent contracts being made?

Mr. CAMPBELL. I think it goes further. I have not had time nor opportunity to examine this carefully but that is how it strikes me at the first glance.

Mr. BROWN. I desire to say that I heartily agree with what has been said by my friend from Laramie, but I do not agree that what he says has everything to do with the purpose of this proposition. My construction of the reading of this section is, and I may be wrong, owing to my unfortunate absence at the discussion of the meaning of this, my understanding is not that it changes the relations of master and servant at all, but it simply prevents a master from compelling a man when he enters his employment of signing any contract that will disturb the legal relations as they now exist between master and servant. That is my understanding of the section. If wrong, I should like to be set right.

Mr. POTTER. My objection to it is even for another reason. My primary objection at this time, (and the differences between the two gentlemen increases my objection) whenever you have a small section like this, which is liable to encounter difficulties in its construction, it is very clear to me that the

place for it is in legislation, and not as a fundamental law. I object to it because I think it ought to be left for subsequent legislation, and not become a question of fundamental law.

Mr. HOYT. I desire to say a word, not intending to argue this matter at all, that while I agree with the gentleman who has just spoken, as to the great importance of our not interferring with matters which may be left to the legislature, since this has been introduced and acted upon by the committee here, and as it appears to me to protect a very important interest, and appears to me to be very carefully expressed, and I would simply emphasize what has been said by our president himself, that this refers simply to the matter of contracts being made whereby corporations shall be released from liability for injuries due to their negligence. I think we cannot be too careful in protecting the rights of the great laboring classes, and I therefore think it would be well and proper to incorporate this section into our constitution. But I object to one word. I think the day of master and servant has gone by forever, and there is no cause for inserting into the constitution of Wyoming the word servant at all. "Of its employes" covers everything. Everyone who is engaged to perform the duties of another is an employe, and I see no occasion to use the word servant at all, but will vote heartily for the propositions as it stands.

Mr. RINER. I hope this provision will not be embodied in the constitution if the purpose is as suggested by Governor Hoyt. I agree with Mr. Campbell that the language of the section is sufficient to carry with it the construction he places upon it. So far as a contract is concerned it has been positively decided by the supreme court of the United States, unless there is a consideration it amounts to nothing. The supreme court of the United States in Ross vs. the Milwaukee & St. Paul railroad case, has settled this whole question. The purpose of this section by the mover was to do away with the doctrine of fellow servants in this state; whether or not the language of the section is sufficient to reach that question I am not altogether certain, but I think that it is. If that be the case, then I agree with Mr. Campbell it would be impossible for any corporation to do business in this territory. Not only does it effect corporations, but other persons. The section reads "it shall be unlawful for any person, company or corporation to require of its servants or employes as a condition of their employment or otherwise, any contract or agreement whereby such person, company or corporation shall be released from liability or responsibility on account of personal injuries received by such servants or employes while in service of such person, company or corporation." Here is what I want

to call attention to. "By reason of the negligence of such person, company or corporation, or the agents or employes thereof, and such contracts shall be absolutely void." Now then I want to know if that, and I ask the lawyers of this convention who are more familiar with the decisions of the supreme court than I am, in regard to this matter, does not that wipe out of existence the doctrine of fellow servants, and makes a corporation or a person liable for the injuries caused by the negligence of a fellow servant. What is the effect? Applied to a railroad company, Mr. Campbell has stated it; it makes a railroad company liable where one section man is injured by another section man's negligence, regardless of the rights of the company. In the cattle business it makes a cattle man living in Cheyenne liable for the negligence of his servants on the range a hundred miles north, and he has no security for it. Now I believe a corporation should be bound. The supreme court in the Ross case held that where a railroad corporation is operating a line of road, that the head of every department is a vice principal, and represents the company. In the Ross case it was held that the conductor of the train was a vice principal of the company, and the company was responsible for his acts. Why? Because he represented a separate department in the compan's service. Until the train left the end of his division, it is for him to say, says the supreme court, when the train shall start, when it shall stop, at what speed it shall run, so that every principal applying to the master would apply to him, and he is a vice principal and stands in the master's place, and for his acts the company is liable. Suppose you adopt this section, and the points for which Mr. Campbell and I contend are right, we may be wrong, but if not, the language in the next to the last line will hurt everybody. If that be adopted, then if one brakeman is injured by the negligence of another brakeman upon the same train, in the same grade of employment, where the conductor had no knowledge and no means to prevent the accident, and nobody else had any power to prevent it, you put the company in the position and make them liable where they could not have prevented it. Now I say that that is not right, and what is true as to a railroad company applies to every other interest in this territory. Do you pretend to say that if this section has that effect that there is any justice in the Standard Cattle company of this city being held liable for the injuries one cowboy receives because of the negligence of the other cowboy one hundred miles north on the range? If you take out of your law the doctrine of fellow servants that is where you land. So far as the protection of employes is concerned they are already fully protected. The supreme court

of the United States has decided that a company is liable for the negligence of a vice principal, for the negligence of a man in charge of a separate department of the service, and who stands in the shoes of the master, so far as his liability is concerned. That the company is liable for the negligence of a servant of one department causing an injury to a servant in another department, and why? Because in that case the servant in the other department has not the means to protect himself against the negligence of that servant, that he would have if he was a servant of equal grade and in the same department. If this section, and I fear that the language is sufficient, if that be the effect of this section, I am certainly opposed to it. If that has already been decided I want to know why it should go into the constitution. It is the law now as squarely laid down by the supreme court of the land, and if it does not wipe out the doctrine of fellow servants then it has no place here, because the supreme court of the United States has decided, and decided most positively, the liability of the parties. I am opposed to it for the reasons given by Mr. Campbell, and if it does not bear that construction I am opposed to it because it is a useless provision.

Mr. BAXTER. Does the decision in the Ross case say that servants cannot enter into a contract with their employers?

Mr. RINER. The supreme court of the United States has decided that such contracts must be founded upon a good and valuable consideration, and without that it amounts to nothing whatever; they hold that employment itself is not a consideration.

Mr. SMITH. This section don't get at what we want to reach at all, and anyway I think it properly belongs within the provision referring to corporations, and I know that the committee on corporations is preparing an article that I think covers what we want to reach here, and for that reason I move that this matter be referred to the committee on corporations.

Mr. REED. I would like to say a word in regard to this matter. It is easy to be seen where the objection to this bill comes from. So far as cowboys are concerned I don't see that cuts any figure in it at all. It is ridiculous to bring cow boys in here. As I understand this, this is to reach what we originally call the old ironclad agreement. I can see the object of this because I have worked on all the railraods west of Chicago I might say, and they have all adopted a policy that this here touches upon. It was called the ironclad agreement, by which a man when he entered the employ of the company agreed to release the company from all liability for any accident that might occur to him, no matter whether the fault was directly traceable to the company or not. Now if I understand

the sense of this File No. 70 it is to keep us from having any such an introduction in this state of any ironclad agreement between any railroad company and its employes, and I believe it should pass. It is to protect the poor man. And I wish to add, so far as the law is concerned, I don't care what the law is, I have heard so much about law on the floor of this house that I am disgusted with it. It is justice we want, and mercy with justice. I think the case in this town today pending before the courts is enough. A man paralyzed, with a large family to support, his body and mind almost destroyed in the service of the company, and I would like to know what the law done for him. The case has been carried to the supreme court, but the poor man has got nothing as yet. That is law, I suppose. I am sorry to bring this matter up, but everybody in town knows it, and knows too that the cause of that man's injury was due directly to the negligence of the overseer of the job he was working on. The man was poor, and he got but poor treatment, and everybody knows it.

Mr. RICHARDS. It seems to me that nearly all the gentlemen that are discussing this matter seem to imagine there is but one corporation in existence and that will exist in the future in the state of Wyoming, and that the Union Pacific Railway company. We are here to try and establish the fundamental law for the state that we hope will be great in material prosperity. The northern part of this territory today is laboring under a commercial depression for the reason that we have no resources that will bring money into circulation and bring prosperity to our people. If measures of this character are to be embodied in our laws they will stand here as a menace to the introduction of capital from abroad that should go to the development of the natural resources of our country. Consequently, I think it is a false position and a great wrong and a great mistake to hold up a sign forbidding and denying people you might say, from bringing their money into our territory to help develop the great hidden resources that it is necessary to have developed to bring prosperity to our people.

Mr. JOHNSTON. I have no particular objection to the first part of this bill, or to any of it in fact, but I know something about this in a practical way. I have charge of large gangs of men where we used great quantities of explosives, and as that reads it appears to me that it makes the company who are using these explosives in the performance of its business, responsible for the carelessness of any employe of that company. I know that it required constant vigilence on the part of the superintendent and foreman of these works to prevent employes using explosives carelessly. It required

constant watching. Accidents might happen for which the company was in no way responsible, and I can see no reason for putting in a clause of this kind in this bill.

Mr. HOLDEN. I have studied this section pretty carefully and it seems to me that there is nothing in this section contained which either increases the liability of corporations or persons or lessens it. It seems to me that the only question contained in this section is that we shall say by fundamental law that all persons and corporations shall forever be prohibited from maying any contracts with their employes which shall lessen the rights of the servant against the master. That is all there is to it.

Mr RUSSELL. In order to enlighten the gentlemen in regard to this I will say a few words. This is taken verbatim from the Colorado constitution, the reason for our introducing this occurred in our county. We are employed by a corporation, though they are restricted by a law on Wyoming's statute books from doing it, that formulated a paper and presented to its employes, requesting them to sign any rights or indemnity they might have under our present law in case of an accident, and they had to sign this paper as a matter of employment. That is the whole sum and substance and object of the introduction of this bill.

Mr. BAXTER. It seems to me that if the gentlemen of this convention will read this provision carefully there can be no question as to its meaning, and the object that is desired to be reached, and I must dissent from the construction given it by my friend, Mr. Russell. It goes directly to the question of making the contract as a condition of employment. There is nothing in it which could be construed in any way as disturbing the well settled doctrine of the relations between master and servant, and I use the term servant because I believe it to be a well understood legal term, and in no disrespectful manner whatever. The section reads "It shall be unlawful for any person, company or corporation to require of its servants or employes as a condition of their employment or otherwise, etc." By striking out the words "or otherwise" it would bring the idea of the contract plainly forward, showing that the only idea was the question of making the contract, as a condition of employment. Now I disagree with Mr. Riner as to the ruling of the supreme court. It seems to me that any contract they might require of an employe on entering their employ might be held valid because the employment itself would be a consideration. If the supreme court has held that no corporation can contract against its own negligence that is a different matter from holding that such contracts are null and void because of the absence of any consideration, the court

could reasonably hold that the giving of employment of any kind would be a sufficient consideration. While I have some doubt as to whether the constitution is the proper place to incorporate this matter, and that it might be better to rely upon its being acted upon by legislation, I have no doubt as to the propriety of laying down a rule that no corporation shall require of an employe any contract which will protect them from their own negligence. That is how I understand this. In answer to the objection that it will keep out capital, I have only to say this is found in the constitution of Colorado and I doubt if any state in the union has received more rapid development and growth than that state, so it seems to me that objection is not good, and I am therefore in favor, in order to secure this right to the laboring man, that this should be incorporated in the constitution.

Mr. PALMER. I believe that the proper construction of this file is simply that no man can stipulate against his own negligence. It seems to me that the people, so large a portion of them being made up of laboring men, should have every protection, and every safeguard that the law can possibly throw around them to protect them from signing away their rights to their employers. The state of Colorado as I understand it has a provision of this kind, and the territory of Wyoming had one similar to it, but the compilers left it out. I believe it is nothing more than right for us to say that a railroad corporation, or any other corporation, cannot say to a man, if we employ you, you must take all the chances yourself, and this company will not be responsible to you for any damage that may result by reason of the negligence of ourselves or of any of our employes. Especially is this true in coal mines a man may be working in one room, and in the next room they may be blasting; he may be injured by another man in the same class of occupation as himself, without any carelessness or negligence on his part; he has signed a contract which stipulates that he releases the company from the carelessness of the man in the next room. I say it is an unfair and unjust proposition to say that a man before he is employed shall sign away his rights, and therefore I am in favor of this section, which I believe simply means that no company can stipulate against its own negligence or that of its servants. I think it would be a good thing in many respects if this doctrine regarding fellow servants of the same grade could be done away with and I think this convention will do well to respect the wishes of the laboring men in this respect, and adopt this file just as it is.

Mr. CAMPBELL. As I said before I have not given this bill a careful consideration, and am not prepared to say what my

honest conviction is as to the construction, and I am not postive that it does not bear the construction placed upon it, because I have not given it the consideration it requires. But let me tell my learned friend, Mr. Palmer, that the supreme court of the United States has said, and said it distinctly, that no person or corporation can contract against their own negligence, the consideration being a money consideration or a labor consideration. They have said that as distinctly as the supreme court of the United States has ever said anything, that is the law from the highest court in the land on that subject. As I remember the case the facts were these: A person was employed by a news agency, that had a pass over the road, and because of that he could be called upon by the conductor of the train to perform the service of a brakeman or fireman or anything else, and as I remember it this young fellow, this news agent, was injured by reason of the negligence of the servant above him. He brought suit against the company and it finally came to the supreme court. I think Justice Miller decided it, and he said this: Inasmuch as it appears from the facts in the case that this person was in the nature of an employe, receiving his transportation as an employe, that the contract he signed upon his pass which is upon the pass of every person it was not a valid contract because he was an employe, and the company could not contract against its own negligence by reason of the employment given, but he intimated in his decision that if that pass was given without consideration the company could contract with the person receiving it, against its own negligence. Now that is the law, and in view of the construction to be placed upon this section I am opposed to it.

Mr. MORGAN. There can be but one construction placed upon this, and it is just as plain as can be. It does not take from the employer a single right that he has now under the law. It does not give to the employe any right that he has not, but simply says that the employe shall not contract and give away rights which he now has. I think it ought to pass.

Mr. FOX. I move we now take a recess until 2 o'clock.

Mr. TESCHEMACHER. I move we take a recess until 7:30 this evening. To sit here all day is a little too much, and then have to come back in the evening.

Mr. PRESIDENT. Gentlemen of the convention, the question is on taking a recess until 7:30 o'clock this evening. Are you ready for the question?

Mr. FOX. I don't see why we should not sit this afternoon.

Mr. TESCHEMACHER. I have given away every Saturday to let the gentlemen from Albany county go home, and the

gentlemen from the western part of the territory, and I have not opposed their going, and I don't think they should object to this.

Mr. CAMPBELL. I have been here constantly, and I think to ask a man to come here every day from 9 until 10 o'clock at night is asking too much. I would like to get off this afternoon, but I propose to be here if we have a meeting. I would like to take my wife to the fair, but I will be here if anyone else is.

Mr. PRESIDENT. The question is on the motion that we do now take a recess until 7:30 this evening. Are you ready for the question? All in favor of the motion will say aye; contrary no. The ayes have it; we will now take a recess until 7:30 this evening.

Evening Session.

Thursday evening, Sept. 19.

Mr. PRESIDENT. The convention will come to order.

Mr. REED. I move rule four be suspended

Mr. PRESIDENT. The rule was suspended for the morning session, and if there is no objection it will be suspended for the evening.

Mr. RICHARDS. I wish to present a proposition, if in order.

Mr. PRESIDENT. The presentation of propositions is not in order at this time, but may be received by consent of the convention. Is there objection to the proposition being presented at this time? The chair hears none; the gentleman will present his proposition. File 83 will be referred to the committee on salaries of public officers, if there is no objection. The file is so referred. At the hour of taking recess we were considering File No. 70.

Mr. CAMPBELL. I made a motion this morning to strike out that section and I now desire to withdraw the amendment.

Mr. PRESIDENT. Is there objection to the gentleman from Laramie withdrawing his amendment? The chair hears no objection; the amendment may be withdrawn.

Mr. SMITH. I desire to offer an amendment, to be added immediately after the last line of the section, "and the rule of common law as to the negligence of fellow servants shall not prevail in the courts of Wyoming.

Mr. RINER. I discussed this matter at considerable length this morning, and I do not propose to occupy the time and attention of this convention on this subject again, but simply to explain what this amendment means. The amendment

proposed by the gentleman from Carbon, takes away what is known as the doctrine of fellow servants and makes the employer, makes the master liable in every case for the negligence of one servant to another, whether or not the master had anything to do with it or not. It makes the proprietor of a store liable for the injuries received by one of his clerks, caused by the negligence of another clerk. It makes the cattle man liable for the injuries received by one of his men upon the range caused by the negligence of another employe of his upon the range. It makes a railroad company liable to a section man for an injury received solely through the negligence of another section man. But I explained all this this afternoon. The bill as filed by Mr. Jones, I am satisfied after my examination of it, does not deprive the company or any individual of their defence, but makes them responsible, as they ought to be responsible, for their own negligence, and not where one servant is injured purely through the negligence of another, and without fault of the master. The purpose of the amendment is to make the master liable whether or not he has been at fault at all. He may have used every precaution and due care in every particular, yet with this amendment he is liable and there is no escape from it.

Mr. HARVEY. I certainly did not expect to have anything more to say on this subject but I am constrained to protest against it once more. If this is aimed at the Union Pacific railroad company all right, but I desire to impress upon the minds of the members of this convention that there are other corporations employing men, in this territory. There are corporations mining coal, and if I am not mistaken we are advocating statehood in order to bring in just as many corporations as we can possibly, and we don't care to throw in their way any unnecessary burdens. As it was originally I should have voted for the proposition, simply aimed at these ironclad contracts, but I tell you, gentlemen, this is a pretty marked innovation as now proposed, and I protest before this convention in behalf of the northern part of this territory against such a measure as this. I protest against aiming unnecessary blows at a corporation simply because it is a corporation. I tell you, gentlemen, this ought to be left to the legislature. Don't throw unnecessary obstacles in the path of corporations, for I tell you it is corporations that we need, it is corporations of great wealth that are now attempting to develop central and northern Wyoming.

Mr. SMITH. I simply desire to say in reply to the arguments against the amendments offered that this section was intended to reach a specified purpose, but I don't think it reaches it, and I offered the amendment for the purpose of

reaching the intention desired in offering this section. I claim while a corporation has some rights, the men who work for them have some rights also, and they should be looked after just as well as that of the corporations. Now if a corporation employs a man in any capacity whatever, and he suffers an injury, and he is without means he has to wait until the thing goes through the supreme court of the United States before he gets anything. That is the way with corporations, and under that state of facts is it not fair that the employe, poor though he may be, humble in life, and without millions back of him to fight in the courts, is it not fair that they have some protection as well as the corporation?

Mr. CLARK. I was in favor of this amendment as originally presented, and I will convey what I have to say on this proposed amendment by supposing the case of two men employed by an attorney in Rawlins in moving his safe, and by the carelessness of one of them the other has his leg broken. Is the attorney to be made responsible?

Mr. CHAIRMAN. The question is on the amendment. All in favor of the amendment will say aye; contrary no. The noes have it; the amendment is lost. The question now recurs on the proposition before us in print.

Mr. MORGAN. I move it be placed upon its final passage.

Mr. PRESIDENT. The motion is that File No. 70 be finally read and placed upon its final passage. Are you ready for the question? All in favor of the motion that File 70 be now finally read and placed upon its final passage will say aye; contrary no. The ayes have it; the motion prevails. Final reading of File 70. The question is on the adoption of the file. So many as are of the opinion that File 70 be adopted as a part of the constitution will say aye as their names are called; those of the opposite opinion will say no. The clerk will call the roll.

Roll call.

Gentlemen, the vote upon File 70 is as follows: Ayes, 38; noes, none; absent, 11. By your vote you have adopted File 70 as a part of the constitution.

Mr. COFFEEN. We would ask consent that the report of the committee on corporations be presented at this time.

Mr. PRESIDENT. Is there objection to the report of the committee being received at this time? The chair hears no objection; the committee on corporations will present their report. Do you desire the report read?

Mr. RINER. I move the substitute be referred at once to the printing committee.

Mr. PRESIDENT. It is moved that the report be referred to the printing committee. Are you ready for the question?

All in favor of the motion will say aye; contrary no. The ayes have it; it is so referred.

There is upon the file for your action and final passage File 78, on live stock. What is you pleasure as to that file, gentlemen?

Mr. TESCHEMACHER. I move it be placed upon its final passage.

Mr. PRESIDENT. It is moved that File 78 be put upon its final passage. Are you ready for the question? All in favor of the motion will say aye; contrary no. The ayes have it; the motion prevails. Final reading of File 78. The question is upon the adoption of the file as read. So many as are of the opinion that the fille be adopted as a part of the constitution will say aye as their names are called; those of the contrary opinion will say no. The clerk will call the roll.

(Roll call.)

Gentlemen, your vote on File 78 is as follows: Ayes, 37; noes, none; absent, 12. By your vote you have adopted File 78 as a part of the constitution of Wyoming. Gentlemen, I believe that disposes of all the business on the table for final action. What is your pleaesure? On the general file there is a large amount of unfinished business.

Mr- TESCHEMACHER. I move we now go into committee of the whole for consideration of the general file.

Mr. PRESIDENT. It is moved that we now go into committee of the whole for consideration of the general file. Are you ready for the question?All in favor of the motion will say aye; contrary no. The ayes have it; the motion prevails. Will Mr. Burritt take the chair?

Mr. CAIRMAN. Gentlemen, we have for our consideration File 76, on legislative department. At the time the committee arose the file had been gone trough with from beginning to end. What is your pleasure?

Mr. HARVEY. I move that when this committee arise they report back this file with the recommendation that it be adopted as amended.

Mr. BARROW. I have an amendment to offer. I move that the word "thirty" in line five be amended to read "twenty-eight" and that all that portion following beginning with the word "provided" be stricken out.

Mr. COFFEEN. There are three inconsistencies in this bill as it now stands. And you will all concede that it needs examination before it passes. In the first place Sec. 2 as amended does not make the lower house twice the size of the upper, and we have agreed it should not be less than twice. Instead of cutting the number down to twenty-eight I should favor an amendment to thirty or thirty-two, at least thirty, rather than a change in the opposite direction. Now I desire to call you attention to one or two things here. I wish to ap-

peal to you in the sense of fair play, whether all things considered in the case, whether or not Fremont, Converse and Crook counties shall be entitled to two members in the lower house, while Johnson and Sheridan shall have but half that. The statistics prepared for this purpose show the following results: In Johnson and Fremont counties the difference is one hundred and thirty-one votes, and you give Fremont county twice as many in the lower house as you give the other. Now that is a pretty small difference on which to make a double representation in the lower house. In Sheridan county the difference is one hundred and seventy-seven, yet we have one-half of the representation in the lower house that Fremont county has. Carry it to Crook county, the difference between Crook county and Sheridan is two hundred and eighty votes, a small number to double the representation on in the lower house. The difference between Sheridan and Converse is four hundred and thirty-seven. Converse as compared to Johnson the difference is three hunder and ninety-one votes, and Crook as compared to Johnson the difference is two hundred and thirty-four votes. I desire to offer an amendment to the amendment by inserting the word "thirty" instead of "twenty-eight" in Sec. 3, and give an additional representative to Johnson and Sheridan counties.

Mr. CHAIRMAN. The amendment is not in order. The question is on the amendment to Sec. 5 as offered by Mr. Barrow. If the committee desires to amend Sec. 3 they can do so after the amendment to Sec. 5 has been disposed of.

Mr. BROWN. I wish to say a word to the members of this convention about the apportionment as it stands here. The whole scheme to me is one that has nothing equitable or fair to sustain it. The gentlemen from Laramie county on yesterday all professed at least that they wanted to be fair about this thing, and that they were opposed to the plan of representation of one from each county in the senate because it was unfair, and because it disfranchised a portion of the people of this territory, and largely in the counties of Laramie, Albany and Crook. It is proposed, and I suppose the figures are made here upon the plan proposed in the other as nearly as may be, it is proposed now to do what? To make the unit of distribution of members of the senate 1,200, and why is that proposed? Why the gentleman from Laramie, Mr. Hay, who presented this proposition, has adopted, as any of the rest of us might do, a unit of division that would give the largest possible representation to his own county. In selecting 1,200 he has accomplished that. The whole vote of Laramie county is 3,695, and by taking the unit of 1,200 the gentleman gets three members of the senate and loses practically nothing. The unit

for the house in this proposition is 600, and by dividing 3,695 by that you lose nothing. These two units of division that were adopted because they exactly suit the situation in Laramie county, no matter what may happen to the other counties. Now let us go a little further. Carbon county and Albany couty each have 2,600 votes, or thereabouts, a little more than 2,600. By taking the unit of 1,200 you disfranchise in those counties 200 voters in the council from each of them. What do you do further? You say you will give Sweetwater county two members of the senate, that is the proposition as passed, on 1,747 votes. You say then in order to be exactly fair and to do what is equitable and just, you propose to give Sweetwater two members of the council, with 1,700 votes, and to give Albany and Carbon, each with 2,600 votes, 900 more than Sweetwater county, the same number of members of the senate. Is that fair; is that just? What further does your proposition do? You give to Uinta county, with 2,037 votes; you say Uinta county shall have a representation of two members of the senate on the 2,000 she has, as against 2,600 in Carbon and Albany. Is that fair; is that the way to meet out justice to these different counties on this question of apportionment? What do you do with Sweetwater in the house? You say we will give to Sweetwater three members of the house, and on what basis? With a vote of 1,700, and a little over on the unit of 600 it would take 1,800 votes for three members of the house in Sweetwater county, and yet you say we will give them two members of the council and we will give them more than they are entitled to in the council, and you do it on the plea of exact justice. Now you gentlemen observe how these matters apply. I am opposed to this method and this scheme of settling the representation in the senate, because you can never adopt a unit of representation, no matter what it may be, that will give exact, equal justice in representation to the several counties. It is an impossiility. But it is proposed to adopt that scheme. Now if it is adopted, what unit of division shall you take to meet the case the most fairly and equally? Not the units of 1,200 and 600. That can be easily determined by the figures, but by taking some other unit you can come more nearly to exact justice in representation as between the several counties. Let us examine this as to Albany and Carbon counties. Each of these counties are in this condition. They each have something over 200 voters that are debarred of representation in the senate. According to the unit adopted for division, one member of the senate is equal to two members of the house. In other words it takes twice as many voters to give one member of the senate as is required to give a member of the house. Then this is the situation. Two hundred are dis-

franchised as to senate representation in each of these counties. That is equivalent to 400 in the house. In addition to that each of these counties are disfranchised in their representation in the house in something over 200 voters. We have then to give them a full representation, taking these figures as they stand on the units proposed, we are fairly and equitably entitled in each of these counties to an additional member of the house, and still have something left over after giving us that representative. What you cut short in the senate, in order to be fair in the representation, must be made up in the other house. In making that up, taking these figures, it entitles each of these counties to one representative and a little more in order to be fair. Look at some of these other figures. Sweetwater with 1,700 votes has two members of the council. Fremont with 1,047 votes has one member. Converse with 1,307, coming within about 400 votes of Sweetwater, has one member of the senate. As between 1,307 and 1,747 is that fair or just or equitable to give to Sweetwater county this additional member of the senate, and say to Converse county you shall have nothing for you overplus? I don't believe in this way of disposing of matters of this kind. It is unfair, it is unjust, and I say to you so far as Albany county is concerned they would rather be deprived of the one representative that we are entitled to than to cut short any of the smaller counties. The only way in which that representation can be arrived at, and the way that is adopted in all instances so far as I know, whether you take it upon population, which is a proper way or an improper way, taking it whatever way you please, you must do it in this way, and in order to be fair, and it is universally done in this way, the larger counties because of their population and wealth and enormous representations are always cut short, and the smaller counties given a larger representation in proportion. That is the universal rule in all states, and in all legislatures where men have attemped to do the fair and honest thing. Now I ask you gentlemen to consider these matters, you have adopted this amendment, it is in your hands to amend as you please. We are opposed to the whole scheme, but if you are seeking to do justice, change this representation as it is now presented because I believe it to be an outrage upon the people of this territory.

Mr. TESCHEMACHER. I objected to the report of Committee No. 6 because that report had never been shown to me, but since I have seen the report, I desire to have it submitted to this convention on the ground that I think the chairman of the committee and the members of the committee have been outrageously treated in this respect. We were appointed a committee on boundaries and apportionment. We were

to apportion the members of the first legislature I thought. I don't see what else the committee was for if not to apportion the legislature. We have never had a word said to us about the matter, but the legislative committee has come in and made a report. Now I know perfectly well, having devoted some considerable hours to going over the various constitutions, that there are propositions for putting this in the legislative article of the constitution, but a great majority either have a separate article or they have it in the schedule. There is no question about it. Now I stand here for Laramie county simply to say that I do not believe that any member of this convention from Laramie county wishes to do any injustice to the other counties of this territory, and I think under this apportionment act just submitted an injustice has been done. I think the unit taken there suits Laramie county a little better than it does any other county.

Mr. BROWN. I desire to say for Mr. Teschemacher that in discussing this matter privately he agreed entirely with me, and I think several members of the Laramie delegation agreed that it was unjust in its present form and condition, and I wish to say this in justice to these gentlemen, as my remarks may have indicated a different view.

Mr. CHAIRMAN. The report of Committee No. 6 will now be read.

(Report of Committee No. 6.)

Mr. BARROW. There is a good deal of jest about this report, but I am very much in earnest about this thing. If the gentleman will remove that one section from their report and refer it to the committee on apportionment I think we will try as a committee to do our level best to bring in an absolutely fair and square apportionment for the first legislature of the state of Wyoming.

Mr. HAY. I just want to say a few words in reply to the gentleman from Albany, Judge Brown. I think in his remarks he overlooked the portion of the proposition which provides for the dividing of the remainder. Now it happens that the number 3,600 is divisible by a great many different multiples. Take four, six, nine, twelve, and even thirteen and fourteen, and use the method here suggested for the division of the remainder, and it will come out just about the same. It happens in this case to favor Laramie county, but I deny that 1200 was taken because it gave Laramie county an advantage. I had no idea of getting up anything that was unfair, and if Judge Brown, or any other member of this convention, can suggest a number that will divide more fairly among these particular figures I would be very glad to accept it.

Mr. SMITH. I move that when this committe arise they report back this file to the convention with the recommendation that it be referred to the committee on apportionment.

Mr. BROWN. I object to the file being referred in that way. I think one section, Sec. 3 of the file, should be referred to the committee on apportionment, that properly belongs to that committee, but these other matters should be referred back to the legislative committee, and I move to amend the motion of the gentleman from Carbon by adding that Secs. 1 and 2 be referred to the legislative committee, and the balance to the apportionment committee.

Mr. HAY. It strikes me that the portion of this file which refers to the duties and powers of the legislature in future, that the apportionment committee has nothing to do with that, the apportionment properly belongs to them.

Mr. CHAIRMAN. The gentleman does not understand the motion. The motion is that when this committee rise they report back File 76 to the convention with the recommendation that Secs. 1 and 2 be referred to the legislative committee, and the balance of the bill, referring to the apportionment, be referred to the committee on boundaries and apportionment. Are you ready for the question? All in favor of the motion will say aye; contrary no. The ayes have it; the motion prevails. The next thing on the general file is the substitute for Files 51 and 56, executive department. Sec. 1. Any objections? Sec. 2. Sec. 3. Sec. 4. Sec. 5. Sec. 6.

Mr. CAMPBELL Is there any provision in this bill that the secretary shall act as governor when the governor is away?

Mr. HAY. That brings to my mind something that occurs quite often under the present system, and I don't know whether it is provided against in this or not. The governor when absent from the state, the secretary acts as governor, but the governor may be absent for thirty days within the boundaries of the state, but away form the capital, and there is nobody acting as governor at all. I think if an amendment is added here, it would be well to add to it absent from the state or seat of government.

Mr. RINER. In the third line after the word "office" I move to insert "or is absent from the state or the seat of gevernment."

Mr. PALMER. I would object to the latter part of that. Suppose the governor was in some point in the state in command of troops, we would have another man down here acting as governor. As long as the governor is in the state he is governor.

Mr. SMITH. I would amend the amendment by inserting after the word office the words "or is absent from the state."

Mr. CHAIRMAN. The question is on the amendment. All in favor of the amendment will say aye; contrary no. The ayes have it; the motion prevails. Are there any other amendments to Sec. 6? The section is approved as amended. Sec. 7. Sec. 8.

Mr. CAMPBELL. In the eighth line where it reads "two-thirds" I move to amend by inserting the word"majority" in lieu thereof. I don't believe in giving the governor more power than the legislature.

Mr. FOX. I believe this is right as it stands. I think it should require a two-thirds vote to pass it over the veto. The other way you might as well have no veto at all. Whenever the legislature passes a bill that would settle it.

Mr. SMITH. Mr. Fox has stated partially what I intended to say, but I want to say this much more. That the purpose of the governor's veto is a check in cases of vicious or dangerous legislation. I believe all the states have adopted this two-thirds system, and I don't believe it is wise for us to depart from that rule, but if we are going to depart from it, and make it simply a majority, we might as well strike it out entirely and dispense with the veto part entirely, for it amounts to nothing.

Mr. CAMPBELL. My objection to this is simply this. It gives to the governor the same power that two-thirds of the legislature has, that come directly from the people. If a bill is passed and contains a vicious provision, the governor has the power to call the attention of the legislature to that vicious provision, and the reason why he does not sign the bill, and then I say the people should have the right a second time to say whether or not they are going to over-ride the will of one man, and it should be a majority of the people. I believe it is wise to leave it in the constitution, so the governor can call the attention of the legislature to some bill, and let him say why he objects to the bill, and the legislature may come round to his opinion, but I don't believe in giving one man the same power as two-thirds of the legislature have.

Mr. HARVEY. Veto has been defied as an instrument for the protection of the minority, and as a check upon the majority. We have adopted a system of legislation here, both houses based upon the same system of apportionment, which leaves the minority defenceless, and if you knock out this check upon the majority, where will the minority be? I must protest against this amendment.

Mr. COFFEEN. I confess I was not prepared to take up this question, but I am going to vote and speak for the amendment on my first conviction upon the matter. I am not with my friend from Converse on this question. I do not believe the governor is the representative of the minority, for he is elected by the majority of the entire state, and he comes in conflict for the time being with the majority in opposing a law, but as has been stated the veto power in some states if I mistake not, has been taken away entirely. While it is well and proper to repose great legislative power in your executive office of governor, think whether it is wise or not to give him more power than two-thirds of your legislature.

Mr. RINER. This matter was given some attention in the committee, and I have made a pretty careful examination of the question in other states, and I find one case, Rhode Island, where the power of veto is taken away from the executive, but it requires, however, that every proposition shall pass by a two-thirds vote of both houses, which amounts exactly to the same thing, and I am very loth to depart from a time worn custom, which has proved to be a very wise one in the management of legislation. I don't care to talk about it, but simply call the attention of the committee to the fact.

Mr. CHAIRMAN. The question is on the amendment. All in favor of the amendment will say aye; contrary no. The noes have it; the amendment is lost. Any further amendments to Sec. 8?

Mr. SMITH. In line 11 it provides that a bill shall be returned within three days. I don't think three days is long enough in a rush of legislation.

Mr. RINER. The matter was brought up and talked over, I think very carefully, by each member of the committee. I see no reason why he should take longer than three days to consider any bill.

Mr. GRANT. In the fifth and seventh lines strike out the words "elect" and insert the word "present."

Mr. BROWN. I suggest that the change be made to "members of that house."

Mr. CHAPLIN. If this should pass it might in some cases be possible for any number of the legislature, less than those who opposed the bill, to pass it over the governor's veto.

Mr. CHAIRMAN. The question is on the amendment offered by Mr. Grant. All in favor of the amendment will say aye; contrary no. The noes have it; the amendment is lost. Sec. 9. Sec. 10. Sec. 11.

Mr. RINER. In the second line I move to strike out the word "auditor."

Mr. FOX. It seems to me that the secretary of state can perform the duties of auditor of state, and by attaching to the office a proper salary, we could get a good man to perform the duties of both offices, and save the state the expense of a state auditor. I believe we should reduce the number of state officers to the smallest number possible to have efficient service. I don't believe of course in crippling the state government, but I do think the secretary of state could perform the duties of the two offices, and thereby save the salary of an auditor.

Mr. MORGAN. I think we should have both an auditor and secretary of state. In the first place who will handle the contingent funds and other funds which should be audited, and a man should not audit his own accounts. If there is anything we need in a state, it is an auditor of public accounts, contingent and state funds. Now the secretary is already burdened with the additional duty of acting governor, and aside from that fact in the territory at at this time, the secretary has nearly as much work as one man can do, and do it right. We don't want a man to be acting governor, secretary of state and audit his own accounts.

Mr. RINER. I believe in attaching a fixed salary to the office, and let every dollar that is received be covered into the state treasury. This thing of contingent funds is the curse of this territory, and will be of the state. You give a man two or three thousand dollars for a contingent fund, and the fact of it is, it goes into his own pocket. That is all there is about it. Attach to each office a fixed salary, and make it large enough to get good servants. Get good public service by paying a salary which will secure to the state good and efficient officers. I think a man's fitness and competency is the only qualification to be considered by an intelligent voter in electing a man to this office, and so far as the secretary auditing his own accounts is concerned, if I have an opportunity to vote upon that question I shall certainly vote to attach a fixed salary, and let the state have the benefit of all fees and accounts.

Mr. MORGAN. The secretary of state would have to have a contingent fund as well as any other officer. The secretary has to attend to all the printing and everything of that kind, and it would be simply impossible to do without it.

Mr. CHAIRMAN. The gentleman from Laramie moves to strike out the word "auditor" in line two Sec. 11. Are you ready for the question? All in favor of the motion will say aye; contrary no. The noes have it; the motion is lost. Sec. 12. Any amendments? Sec. 13.

Mr. CAMPBELL. Can anyone see why the auditor, taking into account his duties and qualifications necessary, should

receive two thousand dollars, and the superintendent of public instruction receive fifteen hundred dollars? From the information before me at present I should thing the superintendent should receive two thousand dollars, and cut down the auditor to fifteen, if necessary to keep the figures the same.

Mr. RINER. Until otherwise provided by law, this you will notice is simply for the present. Considering the duties of our present superintendent of public instruction I think the salary is sufficient, and it leaves it in the power of the legislature in case the duties of the office should increase, to increase the salary and make it a proper amount.

Mr. CAMPBELL. I move the president of the university of the state of Wwoming be made superintendent of public instruction.

Mr. COFFEEN. I do not believe in the first place in making the president of the university ex-officio superintendent. The superintendent ought to be elected and most carefully selected, and his office should be at the seat of government, at the capital. In the next place the educational interests of the teachers ought to be distinct in themselves. I would not have the teachers of the common schools subject to the same influence that is going to be the guide in the building up of the university, and if the president of the university were here himself, I am sure he would not favor this thing.

Mr. HAY. I would like a little information as to the duties of the superintendent of public instruction. As I understand it, he only gets about five hundred a year now, and it seems to me for what he does he is pretty well paid at that. If he is going to be ex-officio president of the university it might be different, but simply for the superintendent I think two thousand dollars is too much.

Mr. BROWN. I move to strike out the word "and" in the second line, in the third line strike out all after the word "auditor" down to the words "state treasurer," and in the fifth line strike out the words "fifteen hundred," and insert "two thousand." If the duties of the superintendent of public instruction are to be the same as they are now, I agree with my friend that five hundred dollars is too much, but if the duties of the superintendent of public instruction are to be as they shall be made by law, two thousand dollars is too small. When a man goes over this territory and performs the duties of his office as they should be performed, and as the law makes him perform them, take a man the most of his time. And he will do well if he puts in all his time and has time for the work. The reason I made this motion is that I think all of these officers should be paid

the same salary. Why should the auditor receive more than the treasurer? They should have the same salary, nothing less surely.

Mr. HOYT. If I may be permitted on this subject, as chairman of the committee on education, and other matters on education, which committee has already sent in its report, I desire to say that according to the plan and purpose of that committee, which I trust will be approved by the convention, they propose that the superintendent of public instruction shall be a member of the board of public lands, he shall have to do with the managements of these lands, that is the large body of lands that will come to the state in the interests of schools and education, he will have to do with the apportionment of the funds to the different counties, he will have a heavy correspondence with all parts of the state. There will no doubt in every county be a county superintendent with whom he will have official relations, it will be his duty to travel all over the state, to visit every county, to attend the institutes as they may hold their meetings, and to oversee the whole work of education in the state. According to the report of the committee he would be a member of the state board of health, to inspect the schools so as to bring the public schools under regulations of health, and promote in a general way education in this state. He will therefore be the head of education in this state. And I think should have a salary suitable to the needs of the office.

Mr. CHAIRMAN. The question is on the amendment to increase the salary of the state treasurer and superintendent of public instruction to two thousand dollars. Are you ready for the question? All in favor of the motion will say aye; contrary no. The ayes have it; the motion prevails. Sec. 13. Any amendments? If not the section will stand approved as read. Sec. 14.

Mr. FOX. It seems to me that some of the members of this convention seem to think we could get along without a state auditor, that Sec. 14 could be amended by striking out part of it, and providing that the auditor of the state shall be state examiner.

Mr. HAY. The idea of a state examiner is to have a man who will go over the entire territory or state, examine all public accounts in the state, counties, county clerks, treasurer, clerk of the court, etc., and perform any other duties in the way of examining public institutions as the legislature may provide, also to examine the auditor's office as well as other state officials. You certainly could not have a state auditor, and have him state examiner travelling all over the state at the same time. Another thing for the state examiner to do is to examine all banks incorporated under the state law, and every public

institution of that kind, and I have no doubt that it will take all his time to attend to the duties of his office.

Mr. FOX. I only offered it as a suggestion.

Mr. CHAIRMAN. Any amendments to Sec. 14? If not the section will stand approved. Sec. 15.

Mr. RINER. An amendment has been handed to me which I think in view of the action already taken is a very proper one, and I offer it as an amendment to be added to the substitute, to be numbered 16 I believe. The amendment is this: "The governor of this state is authorized to call upon the supreme court of the state for opinions on points of law in times of emergency and the supreme court shall give such opinions without unnecessary delay and without additional compensation. This amendment is offered because we have done away with the office of attorney general, and this provides that the supreme court shall advise the governor. This has been done in several of the states.

Mr. PALMER. It might put the supreme court in a very embarrassing position to be compelled to answer state officials concerning their own affairs, and I suggest that it only refer to matters of state that opinions be required from the supreme court.

Mr. HARVEY. I looked into this matter in connection with other members of the committee on judiciary and I was at first inclined to favor it. They adopted this proposition in Colorado, and one of the state officials called upon the supreme judges to answer a question of law in connection with some controversy which had come up in his office, and the judges very naturally said that this question is very apt to come before us for decision, and we therefore decline to answer it. The more I think of it the more it seems to me a dangerous provision. The supreme court cannot act as attorney general and supreme court.

Mr. CONAWAY. I move this committee now rise, report progress and ask leave to sit again.

Mr. CHAIRMAN. You have heard the motion, that this committee now rise, report progress and ask leave to sit again. Are you ready for the question? All in favor of the motion will say aye; contrary no. The ayes have it; the motion prevails. The committee will now rise.

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

Mr. CAMPBELL. I move its adoption.

Mr. PRESIDENT. It is moved the report of the committee be adopted. Are you ready for the question? All in favor of the motion will say aye; contrary no. The ayes have it; the motion prevails.

Mr. RINER. I move we adjourn until 9 o'clock tomorrow morning.

Mr. PRESIDENT. It is moved we now adjourn until 9 o'clock tomorrow morning. Are you ready for the question? All in favor of the motion will say aye; contrary no. The ayes have it. The motion prevails. The convention will now adjourn until 9 o'clock tomorrow morning.

SEVENTEENTH DAY.

Morning Session.

Friday Morning, Sept. 20, 1889.

Mr. PRESIDENT. Convention come to order.

Roll call; twenty-eight members present.

Reports of committees.

Mr. BURRITT. I desire to move that the irrigation file be made special order of the day for tomorrow morning.

Mr. PRESIDENT. It is moved that the file on irrigation be made special order for tomorrow morning. Are you ready for the question? All in favor of the motion will say aye; contrary no. The ayes have it; the motion prevails.

Mr. BAXTER. I move we now go into committee of the whole for consideration of the general file.

Mr. PRESIDENT. Gentlemen, you have heard the motion. Are you ready for the question? All in favor of the motion will say aye; contrary no. The ayes have it; the motion prevails. Will Mr. Teschemacher take the chair?

Mr. CHAIRMAN. Committee will please come to order. The committee arose pending the following amendment offered by Mr. Riner "The governor and other state officers are authorized to call upon the supreme court for opinions on points of law in times of emergency, and the supreme court shall be required to give such opinions without unnecessary delay and without additional compensation."

Mr. HAY. I introduced that proposition originally, but it has been changed in some respects, my idea was that the governor should be allowed to call upon the supreme court on grave points of law, in emergencies, and not that the supreme court should be made attorney general at all. In other states they have adopted this and it seems to have worked very well, but as to allowing the supreme court to be called upon for every trifling matter that arises was not contemplated at