

CONVENTION IN SESSION.

Mr. President in the chair.

Mr McCONNELL. Mr. President, your committee of the Whole having under consideration the report of the committee on Public and Private Corporations, desire to report that they have come to no conclusion and ask leave to sit again.

The CHAIR. The report of the committee will be received and lie on the table. What is your pleasure?

Mr. REID. I move that we take a recess until 8 o'clock this evening.

Mr. AINSLIE. I move to amend, and that we adjourn until 9 o'clock tomorrow morning. This matter of holding three sessions a day and tiring the members all out, will have the result of having no quorum in one more day. I swear I will not come here for anybody and work at night.

The question was put upon the motion to amend the original motion to adjourn until 9 o'clock A. M.. (Vote. Division demanded. Rising vote taken, resulting, ayes 20, nays 13.)

Whereupon the convention adjourned until 9 o'clock A. M., Saturday, July 27, 1889.

TWENTIETH DAY.

SATURDAY, *July 27th, 1889*, 9 O'CLOCK A. M.

Convention called to order by the president.

Prayer by the chaplain.

Roll call.

Present: Ainslie, Allen, Anderson, Armstrong, Ballentine, Bevan, Blake, Brigham, Campbell, Chaney, Clark, Coston, Crutcher, Glidden, Gray, Hampton, Harkness, Harris, Hasbrouck, Hays, Heyburn, Hogan, Jewell, King, Lamoreaux, Lewis, Maxey, Mayhew, Melder, Myer, Morgan, Moss, Parker, Pierce, Pinkham, Poe, Pyeatt, Reid, Robbins, Shoup, Standrod, Underwood, Vineyard, Whitton.

Absent: Andrews, Batten, Beane, Beatty, Cavanah, Crook, Hagan, Hammell, Hendryx, Howe, Kinport, Lemp, McConnell,

McMahon, Pefley, Pritchard, Salisbury, Savidge, Sinnott, Steunenberg, Stull, Sweet, Taylor, Wilson, Woods, Mr. President.

Journal read, and approved.

LEAVES OF ABSENCE.

Mr. ROBBINS. I ask indefinite leave of absence for the reason that I have received word from home that requires my attention. I will come back as soon as I can.

The CHAIR. If there are no objections it will be granted.

Mr. MORGAN. I am compelled to ask leave of absence for Monday and Tuesday next, on account of business engagements.

The CHAIR. If there are no objections the request will be granted.

Mr. MOSS. I would like to ask leave of absence for Monday and Tuesday on account of imperative business. I will return, if possible, Monday night, but not later than Tuesday.

The CHAIR. If there be no objections, leave will be granted.

Presentation of petitions and memorials. None.

Reports of standing committees. None.

Reports of select committees. None.

Mr. MORGAN. I move the convention take up the report of the Legislative Department, which was passed in committee of the Whole, and was ordered printed, and which is returned and is on the desks of the members.

The CHAIR. Would it not be well to dispose of that section 21 (18), which was left in the unfinished business?

Mr. MAYHEW. Mr. Chairman, as far as the action of the committee of the Whole is concerned on this section 21 (18), I don't believe it is necessary to go into the committee of the Whole upon this again. We can take it up and consider it in the convention.

The CHAIR. Very well.

Mr. HARKNESS. I move to amend, that we take up the report on Livestock.

The CHAIR. Will the gentleman yield putting his motion until after this section 21 (18) is disposed of in convention by unanimous consent? or if the gentleman desires to make his motion as an independent one, the chair will entertain it.

Mr. HARKNESS. I will withdraw it.

ARTICLE XI., SECTION 18.—PUBLIC AND PRIVATE
CORPORATIONS.

The CHAIR. The gentleman from Shoshone asks unanimous consent to take up section 21 (18) in the convention and dispose of it, to save time. If there is no objection it will be so ordered. It is so ordered. The question now is, consideration of the amendment to the report of the committee on Public and Private Corporations to be numbered section 21 (18).

Mr. MAYHEW. Well, I made this motion in order that it should be taken up in committee of the Whole so that the gentleman's motion might prevail on the other question.

The CHAIR. The chair understood that we would consider it in convention the same as in committee of the Whole.

Mr. MAYHEW. When we reached it.

Mr. HEYBURN. We might as well take it up now.

Mr. MAYHEW. Very well. Do we take up the entire bill and consider it now, or just this section?

The CHAIR. The whole bill was disposed of, and on motion this was postponed until the gentleman could be present.

Mr. MAYHEW. In convention?

The CHAIR. No, sir, in committee of the Whole, and the report held back for your action on this.

Mr. MAYHEW. Very well, we take it up in convention then. Now, I desire to say this in relation to this section. I drafted this section at the suggestion of some of the committee and submitted it to the committee on Public and Private Corporations. It seems to be the

opinion of the committee that there should be something placed in this constitution in relation to the combinations of companies and persons to prevent them from creating trusts upon the products of the country and regulating the prices thereof, as you will see by this article. It met with the approbation of the committee on Corporations, and with the approbation of quite a number of the members of this convention that I thought it was prudent to submit it to; and every one, with the exception of one or two that have looked at it, expressed the opinion that it was necessary that such a section as this should be placed in the constitution. I will say, Mr. President, that while this section as it stands perhaps is not perfect in its nature and character and could be improved on (if some gentleman thinks it is necessary I have no objections), but I do think, Mr. President, that there should be something in the constitution to reach this subject, to prevent these trusts as they have been carried on in different sections of the Union, in different states, to the detriment of the people at large. That is all I desire to say upon the subject.

The CHAIR. Does the gentleman move the adoption of the section?

Mr. MAYHEW. Yes, I do.

The motion was seconded and the chair put the question. Upon the rising vote, ayes 31, nays 7; and the motion to adopt the section was carried.

The CHAIR. The question is now upon the adoption of the report as amended.

Mr. HEYBURN. Mr. Chairman, there was another section, and that is withdrawn; but it seems to me that is not the proper action now because we are not in committee of the Whole.

The CHAIR. The point is well taken. This disposes of the section for which we got unanimous consent to consider. We are now in convention. What is the pleasure of the convention?

Mr. MORGAN. I move we take up the report on Legislative Department, which has been reported back

from the committee of the Whole for consideration by the convention.

Mr. HARKNESS. I move an amendment to that motion to take up the report on Livestock.

Mr. MORGAN. We will take that up right after this.

Mr. HARKNESS. Very well.

The motion to amend having been waived by the mover, the motion to take up the report of the committee on Legislative Department was voted upon and carried.

The CHAIR. The chair will announce to members that we have been running overtime in speaking, and unless there is objection or desire to the contrary, the chair will hold the time according to the rule.

ARTICLE III., SECTION 1.—LEGISLATIVE DEPARTMENT.

Section 1 of Legislative Department was read, and it was moved and seconded that it be adopted. Vote and carried.

SECTION 2.

Section 2 was read, and it was moved and seconded that it be adopted. Vote and carried.

SECTION 3.

Section 3 was read, and it was moved and seconded that it be adopted.

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

Mr. HARRIS. I have an amendment.

SECRETARY reads: Amend section 3 by striking out the word "two" and insert the word "four" and add after the last word "one-half of whom shall be elected every two years." Heyburn.

I move to amend by inserting in line 1, after the word "senators" the words "and representatives," and strike out the words following "years" in the same line down to the word "from" in line 2. Harris.

Mr. HEYBURN. I do not desire to speak at length on this subject, but it seems to me we acted hastily the

other day in changing the terms of senators from four years to two years. The object of the senate is that it shall be a worthy body and shall not be subject to those repeated and constant changes that prevail in the other body of the legislature, and I think in order to secure that, the terms of senators should be four years.

Mr. MORGAN. I wish to suggest to the gentleman from Shoshone that if this is done we had better adopt section 3 as it was originally reported.

Mr. HEYBURN. Yes, I would be in favor of adopting the section. If the gentleman has section 3 I will accept that as a substitute; if he has it at hand.

Mr. MORGAN. I hand the gentleman section 3.

Mr. HEYBURN. I will change the form of my motion, Mr. President. Section 3, as originally reported, provided for that, and I will move in place of the amendment I sent up, to substitute section 3 as originally reported for section 3 as amended.

The secretary reads the substitute for section 3.¹

Section 3. The senators shall be elected for the term of four years and the representatives for the term of two years from and after the first day of December next following the general election; *Provided, however,* That when the senators elected at the first election after the adoption of this constitution shall assemble at the seat of government, they shall, on the first day of the convening of the legislature next thereafter, draw numbers for long and short terms.

Numbers corresponding with the number of senators elected shall be placed on separate pieces of paper, which shall thereafter be carefully folded so as to hide the number and placed in a box.

The senators shall then, in the presence of the Governor, Secretary of State and State Auditor, or any two of them, draw the numbers from said box. Those drawing the odd numbers shall serve for the term of two years; those drawing the even numbers shall serve for the term of four years, so that thereafter one-half of the senators shall be elected every two years, and in case of an increase in the number of senators, the same proceedings shall be had to determine the long and short terms of the senators first elected from the new districts.

¹—From Convention Journal, p. 202.

Mr. SHOUP. Mr. President, if section 24 of this bill be stricken out I would have no objections to that amendment; but if it remains in there as it is now, I certainly will object to it.

Mr. GRAY. I oppose the amendment. The executive bill gives the governor two years and these senators four years. I cannot understand it. A good many of them who are elected senators will want to get rid of it as soon as possible if they are good ones, and if they are not good ones, we will want to shut them out as fast as we can; so I am opposed to it, especially when the principal officers of the state are to be elected for only two years.

Mr. SHOUP. How about the judges of the supreme court?

Mr. GRAY. I look at the judiciary different from what I do this. It has generally been the case that we want to get rid of them as soon as possible. Their heads grow so rapidly we want to shut them out as soon as possible.

Mr. MAYHEW. I am satisfied the gentleman at some period in his life has been in the legislature.

Mr. GRAY. I have. (Laughter.)

Mr. MAYHEW. I am not surprised then at the gentleman's argument. Now, I think it is best this amendment should be adopted. I don't care about any other of the offices. We can have the governor elected for four years if we desire, but for the reason given by Mr. Heyburn, and for the reason given in this section, it is best to have it, as being a conservative body, that the members of the senate should be elected for four years. We cannot always say that we are going to have good representatives in the legislature, either in the senate or in the house. Good men, I trust, will get there. I have not lost my confidence in the legislature in twenty-four hours as my distinguished friend has. Yesterday and a day or two ago he had extreme regard for and faith in the legislature; this morning he hasn't got so much; and I conclude the reason of it is that he

came to think about the time he was in the legislature and that it was necessary for him to get out.

Mr. GRAY. Yes, my people wanted me out.

Mr. MAYHEW. I have no doubt, from all accounts, that they did. I hope the substitute will be adopted.

Mr. AINSLIE. Mr. President, this matter was discussed at great length in committee of the Whole before, and after full discussion of the question as to whether it was proper, the committee voted by a large majority to adopt it. I don't think senators should hold any longer than representatives, especially where the state officers hold only two years. If you put in a senate to hold for four years, as proposed by the gentleman from Shoshone, the state officers, if we shall adopt the plan proposed, including that the supreme judges shall be nominated by the governor and confirmed by the senate alone, but not by the two houses, the senate will be more powerful than the governor. They can confirm or not confirm and dictate almost the appointments of the executive. But when you make senators hold only two years as the balance of the state officers hold, there is no balance of power in either department of the state government. After this question was fully discussed in committee of the Whole I believe it was concurred in by nearly two-thirds of the members of this body, that it was an improper measure to insert in the constitution that senators should hold for four years. Talk about having experienced members on the floor is all bosh; that doesn't amount to anything. If we are going to keep amending this bill and go back to it as it was originally reported, you might as well throw aside the whole bill and go back to the original one, because you will have to amend it all the way through. I don't believe in this thing of allowing senators to hold office any longer than others, and I agree with the gentleman from Ada.

Mr. PIERCE. Mr. Chairman, I desire to oppose this amendment too. In the original bill the senate was presumed to be a conservative body; it was intended

to be equally divided between the counties and it was suggested that the terms should then be four years; and it is now a representative body the same as the house, and the shifting population of the territory makes it unjust to give a longer term than two years. Kootenai county, in the argument the other day, it was stated, only had a small number of votes at the last election, and their representation would be based upon those votes; while now they are almost entitled to one-eighteenth of the senators; consequently I think it would be unjust to that county, for one, especially, and so I oppose the amendment.

Mr. POE. Mr. Chairman, we have acted upon this bill and upon this matter, and when we acted upon it there was a pretty full representation of this body, and I think it met with a pretty fair majority at the time of the adoption of it, to the effect that senators should hold their office for the same length of time as the representatives. There is at least forty less in this convention today than there was at the time we adopted this in committee of the Whole, and I don't think it is hardly right for us now, with barely a quorum in this convention, to change the action of the committee of the Whole. It is true we have a right to do so; but I don't think as a matter of policy that it is best for us to exercise that right. This matter was fully discussed at the time it was before the committee of the Whole, and I think the convention voted intelligently upon that matter, and in their wisdom they saw proper to decide that senators and representatives should have the same tenure of office, and I am opposed to making any alteration. I see no reason why a man who is elected to the senate of the state should hold his office any longer than that of the representative. As far as retaining someone endowed with legislative lore in the halls, that is all bosh, all nonsense. The people are the persons to choose their representatives, and they can choose, if they want legislators imbued with legislative knowledge and wisdom, such men and send them to the senate.

But I don't see any reason why we should elect them four years and the representatives for only two years. Let them come fresh from the people, and if they do anything wrong when they are in the legislative halls as senators, let the people put their condemnation upon their acts the same as they do upon the acts of the representatives. Let them stand in the same responsibility before the people, and let them hold their tenure of office subject to the will of the people immediately after their acts in the legislative halls. I think it is right, I think it is just, that they should hold their office for the same length of time, and I shall oppose the amendment.

Mr. HASBROUCK. Mr. President, unfortunately, I hail from a county where my constituents are in such a minority that we shall only get an occasional senator under the apportionment, and that being the case, I want a chance occasionally, and so do my constituents, to vote for a man that is nominated from our own county; and I do not see any other way of getting it than to have them elected every two years. If, however, it should prove that we have an excellent man from another county that is joined with us, we can return him; there is no provision here against their serving more than two years. Therefore I shall oppose this amendment.

Mr. MAYHEW. As a matter of information I desire to ask Mr. Pierce a question. Do you understand that Kootenai county has the smallest vote among all the counties in this territory?

Mr. PIERCE. I understood it was at the last election.

Mr. MAYHEW. Well, the gentleman has not observed the votes. In this last election there were five counties in this territory that voted a smaller vote than Kootenai county. You never were entitled to more than one representative last fall. Some counties in this territory hardly cast 400 votes, while Kootenai county voted last fall some 600 and some odd, or 700 and some odd, a long ways ahead of Oneida county, Cassia county,

Bear Lake county and also Idaho county. Kootenai county polled more votes than any one of those four, and I think more than some other county. Now the discussion the other day, as the gentleman will observe, was by my colleague from Shoshone county, who made a comparison between the county he represents now and Kootenai county as to their votes, and said Kootenai county then would have just as much representation in the senate as Shoshone county. That was his reason. He did not refer to other counties, because there are four or five other counties in the territory that had a much less vote than Kootenai county.

Mr. PIERCE. I did not have any reference to the votes particularly of those southern counties, those Mormon counties, because I did not think they were entitled to any representation.

Mr. MELDER. I am opposed to the amendment. If each county had been allowed a representative or a senator it would not be so much; but Kootenai county has today as large a population as Shoshone. If we make the apportionment according to the vote cast at the last election, it will do our county an injustice, for the reason that since the election last fall there have been two very promising towns built up in the mining district. The Northern Pacific Railway division has been changed from Montana into Kootenai county; the Northern Pacific Company has erected a round-house and machine shops, and already there is a population of 400 people, besides the families to be supported by the railway employes. Mills and factories are building up and there are thirty or forty houses in construction. Those people will all be disfranchised if the apportionment is based on the vote of last fall. It would not be just to place senators in office for four years while we have no representation. For that reason I shall oppose the amendment. I am sorry my colleague could not be here to bear me out in this fact. If we gain in population in the future as fast as we have in the last four months, we will certainly be a very populous county.

We have all the elements for making rapid growth. It has not been settled heretofore as rapidly as it should on account of the public survey not extending to the county; and settlers, in attempting to take up government land, come in conflict with large railroad corporations. We have a valley there forty miles long and eight or ten miles wide, diversified by timber and prairie; but not settled for the reason that the government has not surveyed that land. The mining outlook is just as good for Kootenai county as for Shoshone; it has a large area, it has mountains and mineral, but a large portion is yet unsettled. I shall therefore oppose the substitute.

Mr. MAYHEW. I am opposed to this bill as a whole as amended. If it had been passed as reported Kootenai county would have been placed on an equality with the other counties. The gentleman is opposed to that. Now, he has gotten up here and asked the convention to have some record made of what Kootenai county will be in the future. I am in favor of Kootenai county being as fully represented now as it will be four years hence. I am in favor of its having a representative now, but the gentleman from Kootenai county was opposed to that.

Mr. MELDER. Well, I did not understand the vote.

Mr. MAYHEW. I am sorry you did not understand it, because it was by your vote and one or two others that we could not have it given representation.

Mr. HASBROUCK. I did understand the bill, and I voted to have a senator from each county and I would vote that way now. I think each one ought to be represented.

The CHAIR. The right to call the ayes and nays on that amendment was reserved in committee of the Whole.

Mr. MAYHEW. Yes, I made the motion, or you did.

Mr. STANDROD. I think it is better, if it is intended that a substitute be offered, that we shall vote on the substitute before taking up section 2, because

if the substitute is carried there would be no opposition, I suppose, to senators holding office four years.

The CHAIR. The question now before the convention is —

Mr. STANDROD. (Interrupting) Well, I understand the gentleman from Boise is going to offer a substitute for section 2.

Mr. AINSLIE. I shall offer it at the end of section 4.

Mr. STANDROD. Well, I presume we will have to take a vote on this then.

Mr. HARRIS. I would not object to the substitute, should the amendment that the gentleman from Boise proposes to introduce carry. But the way it is likely to stand, that we be made into senatorial districts of two or three small counties put together, then by having these hold-over senators, some are liable to lie four or maybe eight years without a senator; while were each one to have a senator, then I would support the amendment of the gentleman from Shoshone.

Mr. AINSLIE. I would suggest to the friends of that measure that by voting down the amendment of the gentleman from Shoshone, if we succeed in amending section 4 by striking out the word "representative" and inserting "senator" we can move to reconsider the vote by which it was adopted, and then pass on to section 4.

A MEMBER. Will the gentleman please state his suggestion again; I did not understand him.

Mr. AINSLIE. By voting down the amendment offered by the gentleman from Shoshone and then passing on to section 4, if we succeed in amending section 4 by striking out "representative" and inserting "senator" we can reconsider the vote by which the gentleman's amendment was defeated and move its adoption, which will make the bill proper in every respect.

Mr. GRAY. I cannot for my life see the consistency of giving senators four years when the other officers of the state are for only two years. The gentleman from

Shoshone will be elected again and the political complexion of the house won't be affected during his term, they will elect him again sure. I think there is no reason in electing senators four years when the principal officers of the state have only two years. I want them all to stand upon the same footing. I might do it in case the governor was elected for four years. As it is now, I shall oppose it.

("Question, question.")

The CHAIR. The question is upon the adoption of the substitute for section 3 offered by the gentleman from Shoshone. Shall the substitute be adopted? (Vote and lost.) The substitute is not adopted. The question now recurs upon the amendment of the gentleman from Washington, (MR. HARRIS).

SECRETARY reads the amendment: Move to amend by inserting in line 1 after the word "senators" the words "and representatives" and strike out the words following "years" in the same line down to the word "from" in line 2.

The CHAIR. It just changes the phraseology, but not the sense.

Mr. HARRIS. Yes.

SECRETARY reads the section as it would be if amended: "The senators and representatives shall be elected for the term of two years, from and after the first day of December next following the general election."

Mr. GRAY. I would like to know what good it does; we can understand it as it is.

("Question.")

The question was put and vote taken. Division was called for. On the rising vote, ayes 21, nays 16. And the amendment was adopted.

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

SECTION 4.

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

Mr. AINSLIE. I offer an amendment.

SECRETARY reads: Add after "representative" in line 4 "and one senator" so that it will read "*Provided*, each county shall be entitled to one representative and one senator."

Mr. MORGAN. If that amendment is adopted there are three or four other sections that must be changed in order to make the bill harmonious. It was first drafted with the intention of giving each county one senator. The committee did not approve of that, and provided that each county should have at least one representative. The bill was then changed all the way through in order to make it correspond to that, and there are two or three other sections that will have to be changed if the amendment is adopted. As each county is given one representative, I do not see the necessity for the change now, and I am therefore opposed to it.

Mr. HEYBURN. I have an objection to it that is not based upon the amount of trouble that will be put upon the convention, but upon this principle, that I am opposed to confining the members of the senate to the counties without regard to size or voting population of the counties. I am opposed to Bear Lake county, with its legitimate votes of less than a hundred or two, having the same representation in the senate of the state as the counties of Ada or Shoshone or Bingham or any other of the populous counties. It is manifestly a violation of every rule of representation based upon the people and the voting strength of the people. I can see no argument in favor of it except it will give those counties down here that have a very small legal vote the same representation it will give the large counties of the state. There is manifest injustice in it, which seems to be almost outside the pale of argument. This is a representative government. Its legislature is supposed to represent the people in proportion to the number of the people or number of legal voters of the state accordingly as you may base the apportion-

ment. If you give those counties with one or two or three or four or five hundred votes the same representation upon the floor of the senate, the same right, that you give the large counties, you exhaust the number of senators, of which there are only eighteen members in the state, so that you have no surplus members to add to or apportion among the large counties. The rule of basing the house of representatives by giving that one member for each county is not so objectionable, because that left a surplus of eighteen members to be divided among the large counties. So that in the end the apportionment could be fairly dealt out among the counties. It was agreed the other day in committee of the Whole that this rule should prevail, and it was accepted by the then majority of this convention. I do not know how this convention stands now in that matter, but it would be manifestly unfair to change the rule at this time.

Mr. AINSLIE. Mr. President, by reading this bill carefully, the members will see for themselves that this giving each county a senator will take effect at the first session of the state legislature, which will be the most important session of that body probably that will ever be held during the existence of Idaho as a state. In carrying into effect the machinery of the state government, and passing upon the governor's appointments, I think it is nothing more than fair and right that each county should have a voice in the permanent selection of the nominees of the governor. After the first session of the legislature the senate will consist of twenty-four members; giving each county one, the other senators can be divided among the larger counties, which will no doubt be the action of the legislature in distributing them. It is the same rule as applies to the senate of the United States, wherein each state is represented by two senators, no matter if it is the little insignificant state of Delaware in comparison with the great state of New York, or the state of Pennsylvania, which has ten times or a hundred times the population of some of the smaller states. And that system has never been

attempted to be changed by any proposed amendment to the Constitution of the United States. I say that where the governor of the territory or of a state has a right to make appointments subject to the confirmation by the senatorial department, you may disbar half a dozen smaller counties of this territory from having any voice whatever in the confirmation of those appointments. The big fish always eat up the little fish, we know that. And when these large counties have a little county tacked onto them for senatorial purposes, the smaller counties in this territory, which may be one-third and probably nearly one-half of them, will have no voice whatever in the senate of this state if that principle is adhered to of apportioning the senators according to population. I believe in apportioning the lower branch of the legislature like the popular branch of congress among the people of the United States, according to voting population or according to inhabitants. That is very proper. If we give each county a senator, we have an equal voice in the upper branch of the legislature with the large counties, and by apportioning the lower branch, which may come to be sixty members of the legislature, according to population, the larger counties will get their full share of representation in the lower house which will have an equalizing tendency to check any evil result arising from it. But after the first session of the legislature these larger counties will get the additional apportionment coming out of the six additional senators the constitution provides for; and I think it is nothing but justice to the smaller counties, because when it is confined to the senatorial district by the policy of attaching the smaller counties, probably two or three, to one big county, or one big county having two or three senators, the evil cannot and never would be corrected. When the senators are altogether in control of the big counties, there never can be any correction of that evil whatever under the amendments proposed in this reprinted bill. I believe where the governor has so many appointments to be

confirmed by the senate, that the people throughout the whole state represented by the smaller counties have an equal interest and should have an equal voice in their confirmation, and I hope the measure will be adopted.

Mr. CLARK. Mr. Chairman, I merely want to correct one statement, not very important, but it has been cited that the injustice of this provision for one senator in each county will result in giving Bear Lake county, which has only about one hundred legal voters, a senator. We might as well be accurate. The gentleman probably had in his mind the returns of two or three years ago. At that time there were in business in Montpelier about 350 inhabitants, nearly all Mormons. At the present time the railroad has made a division headquarters there, the railroad shops are there and the increase of the anti-Mormon population is very great. At the election last fall there were 601 votes cast, of which number the Mormon candidate received 159 votes and the balance of the votes, in number 442, were divided between the gentile democratic candidate and the republican candidate. This 442 represents the legal voters, and the 159 probably represents the strictly Mormon vote; but a fair statement of the case would be that there are now in that county the number of votes received by the other candidates, to-wit, 442 votes. And if any gentleman will visit the town of Montpelier he will be satisfied that there is not the injustice in giving that county a senator that gentlemen generally suppose. Of course it is the smallest county, but it is not so great an injustice as gentlemen generally suppose. I think it would not be unfair to give that county a senator, in view of its rapidly growing gentile population on account of the improvement of the railroad, which carries so large a number of people there.

Mr. AINSLIE. Mr. President, I call the ayes and nays on this question.

Mr. SWEET. Mr. President, before the question is put I simply desire to enter my protest against this. I was perfectly willing, when the gentleman from Nez

Perce the other day suggested that each county ought to have one representative in this legislature to look after the interests of that county, no matter how small or how limited it might be in population; and therefore I voted that each county should have a representative upon the floor of the legislature, and I am ready to vote for it again. But I think that when it comes to giving a county with 400 votes—for if what the gentleman from Ada says is true concerning Bear Lake county, which I am not ready to accept, but even admitting that to be true, it would be giving that county an absolute representative upon the floor of the senate with but 440 votes as against our county with 1460 votes; and I say that is not a fair or a just representation, and I do not believe the people would submit to it.

Mr. SHOUP. Mr. President, I was going to make the same suggestion that has just been made by the gentleman from Latah in regard to the injustice of this provision. We were virtually promised this matter in committee of the Whole a few days ago. This question was raised then and it was then proposed to give each county a representative in lieu of a senator, which was agreed to. I voted for that myself; I was in favor of it. But now, when you come to giving them not only a representative but also a senator I think it is not just. That will only leave six senators—it will not leave any at all; there are eighteen counties and eighteen senators; there will be none to be apportioned. Take the small counties of Cassia, Oneida, Owyhee, Bear Lake—the southern tier of counties, all of them small, some of them have not polled as high as 400 votes—are we going to give them the same representation in the senate that we give the county of Ada that polled nearly 1700 votes, or the county of Shoshone that polled over 1800 votes, or the county of Latah that polled about 1500 votes, and the county of Bingham with its 1500 votes? Are they entitled to any such representation, after we have gone so far as to give each one of them a member of the lower house? Is there any justice in that? I demand a call of the convention.

Mr. CHANEY. Mr. President—

Mr. GRAY. There is a call of the house demanded.

The CHAIR. The motion now before the house is on the adoption of this amendment, upon which the ayes and nays have been demanded.

Mr. GRAY. And we make a call of the house. (Seconded.)

The CHAIR. The gentleman from Latah now has the floor.

Mr. CHANEY. Mr. President, the legislature last winter, of which I had the honor of being a member, seated a gentleman from Bear Lake county with 90 votes. Now, I am called upon to sacrifice 1500 loyal votes of Latah county for (as it may happen again as it happened last winter) ninety votes from Bear Lake county, or in other words, the 1500 loyal voters of Latah county only have the same representation that ninety voters of Bear Lake county may have. I think that is unjust. I think it is simply a question between the large counties and the small counties; not a political question, and it ought not be considered as such. It is a question between right and wrong, and we should consider it as such, and if it is right for the 1500 legal loyal voters of Latah county to have only the same representation in our state senate as the ninety voters in Bear Lake county have who demand the right to elect a man to come here and represent them, we can only secure an equal representation with fifteen members. The proposition is unjust and I cannot support it.

Mr. MAYHEW. I do not desire to discuss this question any further than this. I am aware that the legislature last winter did seat a man in the house of representatives that only had ninety votes. Because that legislature did that, it does not argue at all to me that there should not be a senator from each county. I am decidedly in favor of it. While the gentleman who was seated here had ninety votes, the gentleman who was unseated had, I think, about 300 votes.

Mr. CLARK. He had 353 votes.

Mr. MAYHEW. 353? I don't think the legislature last winter acted correctly, unless they were imbued so strongly with that anti-Mormon idea that they thought he was tainted with Mormonism, notwithstanding he got 350 votes, because ten or eleven Mormons voted for him; and then they put a man in his seat that received nearly an equal number of Mormon votes, but nowhere near the number of 350. I don't think that is any argument in this matter at all.

Mr. CLARK. Allow me to make a correction. The Mormon vote cast for the Mormon candidate was 159 votes.

The CHAIR. I would state to the gentleman from Ada that his call is out of order under the 32nd rule. The question being under debate, the call would not be in order. The question now before the convention is the adoption of this amendment, upon which the ayes and nays have been demanded.

Mr. GRAY. Do I understand the president to say that a call of the house is not now in order?

The CHAIR. I do so rule, and if the gentleman will refer to rule 32 he will find the rule on which the ruling is based. "When a question is under debate, no motion shall be received but to adjourn; to take a recess; to proceed to the orders of the day; to lay on the table; for the previous question; to postpone to a day certain; to commit; to amend; to postpone indefinitely; which several motions shall have precedence of each other in the order in which they are arranged."

Mr. GRAY. Rule 18 provides: "Any three members have the right to demand a call of the convention; but if objection is made the demand shall be sustained by one-fifth of the members present; and upon a call of the convention, the names of the members shall be called alphabetically, and absentees noted."

The CHAIR. Does the gentleman appeal to the convention?

Mr. GRAY. I do.

The CHAIR. The chair has ruled that under rule 32 a call is out of order, from which the gentleman appeals to the convention. All who sustain the decision of the chair—

Mr. SHOUP. I will withdraw the call.

Mr. GRAY. I consent.

The CHAIR. I prefer the gentlemen appeal if they are not satisfied.

Mr. SHOUP. No, I will withdraw it.

The CHAIR. The question then recurs upon the amendment of the gentleman from Boise upon which he has demanded the ayes and nays, which has been sustained. All that favor the amendment—

Mr. McCONNELL. May I ask whether we are in committee of the Whole or in convention?

The CHAIR. In convention. And the motion is to add to line 4, section 4, after "representative" "and one senator."

Mr. McCONNELL. Is the proposition to have a representative from each county?

The CHAIR. Yes.

Mr. McCONNELL. Regardless of population?

Mr. MAYHEW. I call for the reading of it.

SECRETARY reads: To amend section 4 as follows: add after "representative" in line 4 "and one senator."

Mr. McCONNELL. May I have an opportunity to say a word? We have had that kind of representation in congress a good while regardless of population. But I did not suppose there would be any such measure proposed in this convention, or that any county in Idaho would have the gall to come here and say they should have a senator and representative in the legislature of this coming state regardless of the population they had. That is all I have to say.

The CHAIR. Is the convention ready for the question?

("Question.")

Roll call:

Ayes: Ainslie, Anderson, Bevan, Clark, Coston, Crutcher, Harris, Hasbrouck, Hagan, Jewell, King, Lamoreaux, Mayhew, Melder, Parker, Poe, Reid, Standrod, Vineyard, Whitton, Underwood—21.

Nays: Allen, Armstrong, Ballentine, Blake, Brigham, Campbell, Chaney, Glidden, Gray, Hampton, Harkness, Hays, Heyburn, Lemp, Lewis, McConnell, Morgan, Moss, Pierce, Pinkham, Pritchard, Pyeatt, Robbins, Shoup, Sweet, Mr. President—26.

And the amendment was lost.

The CHAIR. The question now recurs upon the adoption of the section.

Mr. AINSLIE. I now move to amend section 4 by striking out the last word "representative" and insert "senator," and upon that I ask the previous question.

Mr. MAYHEW. I second the motion.

SECRETARY reads: Amend section 4 as follows: strike out "representative" in line 4 and insert "senator," so that it will read, "*provided*, Each county shall be entitled to one senator."

The CHAIR. The question is upon the amendment, and upon that is demanded the previous question. The question now before the convention is, shall the previous question be now ordered? (Vote and carried.)

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

Mr. ALLEN. I call for the stated question.

The CHAIR. The question is upon the adoption of the amendment offered by the gentleman from Boise, to strike out the last word "representative" and insert "senator" so it will read "*provided* each county shall be entitled to one senator."

Roll call:

Ayes: Ainslie, Anderson, Bevan, Clark, Coston, Crutcher, Harris, Hasbrouck, Hagan, Jewell, King, Lamoreaux, Mayhew, Melder, Parker, Pierce, Poe, Reid, Standrod, Underwood, Vineyard, Whitton—22.

Nays: Allen, Armstrong, Ballentine, Blake, Brigham, Campbell, Chaney, Glidden, Gray, Hampton, Harkness, Hays, Heyburn,

Lemp, Lewis, Maxey, Mayhew, McConnell, Morgan, Moss, Pinkham, Pritchard, Pyeatt, Robbins, Shoup, Sweet, Mr. President—27.

And the amendment was lost.

The question now recurs upon the adoption of the section.

Mr. GRAY. I move the adoption of the section. (Seconded. Vote and carried).

SECTION 5.

Section 5 was read, and it was moved and seconded that it be adopted. Vote and carried.

SECTION 6.

Section 6 was read.

Mr. HEYBURN. Mr. President, I offer an amendment.

SECRETARY reads: Amend Section 6 by striking out after the word "senator" in the fourth line the words "and representative," and after the last word in said section add "and representatives shall be at least twenty-one years old." (Vote).

The CHAIR. The chair is in doubt.

Mr. BRIGHAM. What is the question?

SECRETARY reads: Amend Section 6 by striking out after the word "senator" in the fourth line the words "and representative," and after the last word in the section add "and representatives shall be at least twenty-one years old."

Mr. CLARK. Mr. President, it is shown where it says in the previous clause that he must be an elector.

Mr. SHOUP. I offer an amendment to the amendment; strike out the word "twenty-one" and insert the word "twenty-two."

Mr. HEYBURN. If the gentleman does that with the idea that there is very much in the proposition that that would preclude men from being elected when they were only twenty-one, I think he does it under a mistaken impression. If he is a citizen of the United States and has just attained twenty-one years of age, the pre-

vious portion of that section would not preclude him from being elected to this office. I think that will be conceded. I offered this amendment in the interest of young men. We have shut every other door in the state government against them. In every other provision we have precluded young men, by fixing the age, and there should be some avenue open to their ability and ambition.

Mr. GRAY. I shall oppose the amendment. Most young men don't know any too much when they are twenty-five years of age. When we come to make laws, for boys as old as we are, we are not making a very good job of it. We had better be a little careful. If you don't you will get a boy with a head that will have to have a bushel basket for a hat; and I am opposed to the amendment.

The CHAIR. The question is upon the adoption of the amendment. (The chair being in doubt, asked for a division. On the rising vote there were twenty-eight ayes and sixteen nays, and the amendment was adopted.)

The CHAIR. The question now recurs upon the adoption of the amendment as amended.

Mr. CLAGGETT. I move to strike out all of the section after the word chosen in the fourth line. It is perfectly ridiculous to be putting in a proposition of that kind. (Seconded.)

Mr. CLAGGETT. I think it is perfectly ridiculous to put in the constitution that a person who under the law has just got the right to make a contract—for until he is twenty-one years old he is an infant, cannot even make a contract for necessaries, except under certain circumstances, cannot bind himself to anything, held by the law to be utterly incapable of attending to business—may be elected to the legislature. To put that in here in that kind of shape makes the constitution look ridiculous. In other words, in the light of the last vote, allowing a man to be a member of the legislature when he is twenty-one years of age—why, it seems to

me we ought to strike it all out and let the voters send whoever they please.

Mr. POE. Let me ask you a question; it may be impertinent, but let me ask you how much over twenty-one years old you were when you first went to the legislature?

Mr. CLAGGETT. Well, sir, I was fully twenty-one. So the gentleman need not worry himself; and I don't think now that I had sense enough then to properly represent my constituents. (Laughter.)

Mr. SHOUP. A member of the legislature must be one year an elector before he is eligible to the office.

Mr. HASBROUCK. I would like to have the section read with that amendment incorporated in it, the amendment before.

The CHAIR. That strikes out the amendment.

SECRETARY reads: "No person shall be a senator or representative, who, at the time of his election, is not a citizen of the United States and an elector of this state, nor anyone who has not been for one year next preceding his election an elector of the county or district whence he may be chosen.

Mr. GRAY. Mr. President, I shall favor the amendment. I am willing to leave it to the people. As for making it a provision that he may be sent there at twenty-one years of age, I say I know when I was twenty-one years old I would not have been fit to represent anything in a legislative body, and I was an average boy too. But, as I said before, it spoils a boy.

Mr. SWEET. I would like to know at what age all these distinguished men mature in mind?

Mr HASBROUCK. I am in favor of letting the people be the judge as to whether a party knows enough to represent them in the legislature or not. I can remember that John Randolph was elected to congress before he was of age, before he was of the requisite age required by the constitution of the United States, and he was admitted too.

Mr. GRAY. John Randolphs don't grow in this country though.

Mr. HASBROUCK. I don't know whether he knew as much as my friend from Ada or not.

Mr. AINSLIE. I think the amendment we have adopted is correct. Since the gentleman from Washington has seen fit to refer to Mr. Randolph, I think when the question came up as to whether he was twenty-one years of age or not, he told them to ask his constituents, and that ended it. I think that when the law says a man is capable of attending to his own business at twenty-one years of age, he is capable of attending to the business of others in a legislative capacity.

Mr. MAXEY. Mr. President, considerable has been said in regard to our legislature and the actions of our legislatures and the folly of a legislature. I think members of our legislatures should be men of ripe years, men of experience, men of knowledge; and when we submit this constitution to the people, let them say that we intended that the work here shall be perfect.

Mr. HASBROUCK. I will say in answer to the gentleman that I was here in the legislature before the last one, and the biggest cranks in the legislature were the oldest men. (Laughter and applause.)

Mr. MAYHEW. That is the case here.

The chair put the question upon the amendment of the gentleman from Shoshone to strike out all of the section after the word "chosen" in the fourth line. (Vote.)

The CHAIR. The chair is in doubt. (On the rising vote there were, ayes twenty-nine, nays ten, and the amendment was adopted.)

The question then recurred upon the adoption of the amendment as amended. Vote and carried.

SECTION 7.

Section 7 read, and it is moved and seconded that it be adopted. Vote and carried.

The CHAIR. Under the rule it is not necessary to

make a motion to adopt the section. It is if it is amended. But the motion is considered as made by the chairman of the committee.

SECTION 8.

Section 8 read, and it is moved and seconded that it be adopted. Vote and carried.

SECTION 9.

Section 9 read, and it is moved and seconded that it be adopted. Vote and carried.

SECTION 10.

Section 10 read, and it is moved and seconded that it be adopted. Vote and carried.

SECTION 11.

Section 11 read, and it is moved and seconded that it be adopted.

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

Mr. CHANEY. I don't know that I have anything to say. My objections to that section were based upon the two-thirds; that it provides that two-thirds of the house of representatives may expel a member without any cause. I object to that part of it.

Mr. MORGAN. I would suggest to the gentleman from Custer that probably the only objectionable part of this section is that part of it inserted after the word "members" in the second line.

Mr. SHOUP. I will explain to the gentleman why I think it ought to be struck out. We did have on our statute books provisions very similar to this, and I don't know but what exactly the same. These laws will be carried forward until the legislature enacts new laws; and it is a very long section, and I think it should not be in the constitution, but ought to be left to the legislature.

Mr. MORGAN. I am in favor of striking out all after the word "member" in the second line, and if the house desires to strike out the whole of it I have no objection.

Mr. SHOUP. I will change the motion then to strike out all after the word "member" where it occurs the first time in the second line.

Mr. GRAY. I am glad the gentlemen have come to their senses and concluded to leave something to the legislature.

Mr. MORGAN. I objected to this amendment in committee of the Whole, Mr. Gray. Mr. Beatty introduced this amendment.

Mr. GRAY. I am speaking about this gentleman behind me here (MR. SHOUP).

("Question, question.")

The CHAIR. The question is on the amendment offered by the gentleman from Custer to strike out all except the first sentence leaving it to read as follows: "Each house may, for good cause shown, with the concurrence of two-thirds of all the members, expel a member. (Vote. Carried, and the amendment was adopted.)

The CHAIR. The question now recurs upon the question of the adoption of the section as amended. (Vote and carried.)

SECTION 12.

Section 12 was read.

Mr. PARKER. Mr. President, when this report was up the other day I submitted an amendment to section 12 requiring open sessions of the legislature. If my recollection is correct that amendment was passed; but I see it is printed as originally reported. Now, I am opposed to dark lantern or star chamber proceedings, and with the powers entrusted to this legislature I want this section changed. I want the electric light of publicity turned upon everything the legislature has to do in our halls. The legislature has our lives, liberties and

happiness in its hands, and I want the electric light of publicity turned upon every act they do. Can I submit the amendment now?

The CHAIR. Yes, the clerk is looking up the amendments now.

Mr. STANDROD. I move to strike out all after the word "open" in line two, which will leave the section to read, "the doors in each house and in committee of the whole shall be kept open."

SECRETARY reads Mr. Parker's amendment: Amend section 12 by striking out all after the word "open" in line two, and insert "at all hours when the legislature is in session."

Mr. GRAY. If I understand it, on confirmations and matters of that kind, they generally have secret sessions. In the enactment of laws, if it does not cover that, I would be in favor of the amendment; if it does, I don't think we ought to have it.

Mr. SHOUP. I think confirmations should be in open session. This question was discussed in the last senate, whether hereafter confirmations, or when the senate went into executive session, should not be with open doors; and many senators held it should be open, and the doors never closed. When a member is elected to the legislature or to the United States senate, either one, he should say nothing nor cast any vote but what everybody and especially all of his constituents should know just how he voted, and every word he said. He is a public officer, and everything he does in his official duties should be public.

Mr. BRIGHAM. I am opposed to any change whatever in this section. I do not see how anyone who has ever been in a legislature could place this restriction upon the senate, especially in its executive session, so that anyone would be permitted to come in and listen to all proceedings. There are times when the names of individuals may be sent in for confirmation, when perhaps their reputation and ability should be discussed,

and I believe the senate should have the privilege of doing it in secret session if it sees fit.

Mr. HASBROUCK. I shall support this amendment. I do not believe there is any more necessity of anything being secret in a legislature than there is in a court; and there is nothing in a court that I know of, except in some divorce cases, that is ever secret; and I see that in section 19 the legislature is prohibited from having anything to do with divorces. I think it should be just as open as the court, and with no more secrecy.

Mr. WILSON. I hope the amendment will prevail also. I think that more abuses have grown up under this rule of a secret session in the matter of confirmations than any other matter that comes before a legislative body. I think here in Idaho we have had some evidence of it. I think there is more dirt done in the matter of confirmations in secret session than on any other subject that comes before the legislature. I think more men do that which they would not do if they were compelled to go on record in doing it; and that is why I believe, as my friend from Idaho county says, the electric light should be thrown right square on it; let everybody see.

Mr. MAYHEW. I am in favor of the amendment. I believe that in truth and in reason there is no occasion for any executive session in the senate of the state. I believe that it is proper and important that the views as to any confirmations that may be sent in by the governor should be discussed in open session with open doors. As to my friend saying that sometimes it is necessary to discuss the reputation and character of an appointee, and that the legislature should necessarily have closed doors, I think not. I don't think the executive of the territory would ever send a person's name in whose reputation and character could be questioned. Sometimes members of the legislature have reasons which they do not desire to disclose to the public why they will vote against a confirmation, and that is all there is of it. And if a member of the legislature has

any political reason or any other reason against a man he should be compelled to expose that reason in public, that it may be known by his constituents and every one else. I don't believe any man, honest and honorable, in the legislature will trade and swap his vote either in executive session or in open session; and while it seems to be the desire of members to strike out this section they struck out, preventing members of the legislature from bartering among one another, I think that should have remained in there. But I am opposed to having any secret executive session of the legislature of the state.

Mr. BRIGHAM. It seems to me if this should be adopted, it would prevent either of the legislative bodies from ever closing the doors against any rabble or anything of that character that might come there to disturb the peace and deliberations of the assembly. There are times in great public excitement when perhaps it is necessary that the galleries should be cleared and the doors closed, in order that peace might be preserved in that body itself. I do not see why or where or how any individual could swap or trade his influence in executive session. It is the last place in the world I should expect anything of that character.

Mr. MAYHEW. There is no doubt but a legislative body by its rules can always declare the gallery to be cleared, if they come in there for the purpose of disturbing the deliberations of that body. It can always order it cleared; that is a universal principle everywhere under the rules.

Mr. AINSLIE. That secret session matter was originally adopted in the Constitution of the United States, where it is absolutely necessary that treaties with foreign nations should be considered in secret session, and it is understood among representatives of different nations that those matters should be kept secret until the matter is ratified by both parties. Now, we haven't any foreign treaties in a state or territory, and I believe the people have a right to know everything their representa-

tives are doing in the legislature, and I am in favor of having all such matters above board, and not allowing secret sessions to stab a man in his back by saying something that one would not dare say to his face.

“Question, question.”

Mr. GRAY. All I want to say is this: I believe in the secret ballot and I might vote for the gentleman from Shoshone, if we had a secret ballot, but now I don't believe I would.

Mr. MAYHEW. I will relieve the gentleman of any embarrassment of that kind. I am satisfied no governor will ever appoint me to any position, and I won't have it.

“Question, question.”

Mr. CLAGGETT. Mr. President, I think this amendment is to require all sessions of the senate to be open. The objection to that is this: It very frequently happens that the characters of individuals have to be inquired into. If you desire to preserve the power of the senate as a co-ordinate body in the matter of appointments you must necessarily allow their sessions to be held secretly; that is to say, with closed doors. The reason for it is this: The governor, I will assume, has been misled and appointed a man who is really unfit for the position, and yet his unfitness will not be and usually is not generally known. Some member of the senate may know something with regard to it; nevertheless, he will not feel like getting up in open session and calling attention to it, and it very frequently happens by that means that an improper nomination goes through. And in another way, again, if you vote in open session there might be a good many statements made with regard to the character of the nominee or something of that kind, that renders him unfit for office, which subsequent investigations prove to be unfounded. Nevertheless, in order to have careful scrutiny of the character of appointees it should be discussed, and even though found to be unfounded, the person, even if he should be confirmed, would go into office with a cloud,

as it were, fixed upon him in that way. It seems to me that the wisdom which has dictated this matter so frequently everywhere in all the states and in the constitution of the United States, indicates that there are some reasons for it. I do not agree with my friend from Boise county when he says it was on account of the senate being called upon to confirm foreign treaties. That is only one thing. If it had been the intention of those who drafted the federal constitution to allow the senate to sit in secret session in the confirmation of treaties, they would have so said; but they have not so said. They have allowed it on appointments also; and there is sound substantial reason for it. Otherwise you will have your liberty of the senate, which is called upon to perform such a delicate duty as to inquire into the fitness of this or the other applicant for office, made a target of by the people whose characters or reputations the senate may be compelled to attack. I don't think we ought to make the change.

Mr. POE. I don't think the objection given by the gentleman from Shoshone has any force or weight whatever, for the reason that if any man's character is so checkered that he is afraid to have it analyzed and presented before the world in all its hideousness, let him not seek a position where he will be subject to having it revealed to the world. He and he alone will be to blame if his life has been of such character that when he seeks a public office, when he is nominated by the governor for a position under the laws of his state, that it will not meet with the approval of the public. If that is so, then let him be condemned; and if he does not wish this publicity to be given, let him stay away from the senate that has the investigation of that matter. I say that to have a session, an open session, of all the proceedings of the legislature is highly important; for if that is the only reason, that the character of a man will be investigated, and therefore it might injure his reputation, let him keep his character so that it cannot be brought before the world, and then he will

suffer no wrong and no injury thereby. There isn't a man who runs for public office from the governor down but whose character, whenever he comes before the people, is laid open for criticism. Then let the man, who presents his name to the senate for confirmation, share the same fate as the rest of the men who ask for office at the hands of the public. Let his character be analyzed before he takes the position.

Mr. PARKER. This constitution has much to answer for, Mr. President. We have given all our powers and rights to the legislature, and if you give the legislature the power to transact its business in secret, the last vestige of representative government has departed from the people. Mr. President, I am opposed to dark lantern matters, I am opposed to star chambers or Jack Shepard methods of doing business at all. I am in favor of turning the electric light of publicity upon every act of the legislature, and when I vote for a senator or a representative to come here and make laws for me, I have a right to know every word that he utters and every official act of his when he is transacting his business in the manner contemplated by this article. It has been stated here, Mr. President, that there is danger of private character being injured in considering executive nominations; but, Mr. President, any man——

“Question, question.”

The CHAIR. The question is upon the adoption of the amendment offered by the gentleman from Oneida.

Mr. CLAGGETT. Mr. President, I don't know where this came in. As it comes in here in Section 12, to strike out the words, I am heartily in favor of the amendment. I thought it was a proposition to require confirmation matters, while the senate was engaged in executive session, to be held with open doors. I want to retain the other, to allow the senate to sit in secret session.

The CHAIR. The question is upon the amendment offered by the gentleman from Oneida, Mr. Stand-

rod. The clerk may read that section as it will read after amended.

SECRETARY reads: Strike out all after the word "open" in the second line which makes it read: "The doors of each house and the committee of the whole shall be kept open."

The CHAIR. Now read the amendment offered by Mr. Parker.

SECRETARY reads: The doors of each house and of the committee of the whole shall be kept open at all hours when the legislature is in session.

The CHAIR. The question is first upon the adoption of the amendment offered by the gentleman from Oneida, (STANDROD). (Vote).

The CHAIR. The chair is in doubt.

Upon the rising vote there were ayes 30, nays 7, and the amendment was adopted.

Mr. CLAGGETT. I now offer the following amendment at the end of the section as it stands.

SECRETARY reads: *Provided*, That the senate may sit in secret session while acting upon any nomination for office made by the governor.

Mr. GRAY. I second the motion.

The CHAIR. The question is first upon the adoption of the amendment offered by the gentleman from Idaho.

SECRETARY reads: Strike out all after the word "open" in line 2 and insert "at all hours when the legislature is in session."

The question upon the last amendment was put by the chair. Vote and lost.

The CHAIR. The question now recurs upon the amendment offered by the gentleman from Shoshone.

SECRETARY reads: *Provided*, That the senate may sit in secret session while acting upon any nomination for office made by the governor.

Mr. WILSON. I hope that amendment will not prevail, because that is just exactly what we have been striking out and have been making speeches on. We

all know that whoever desires to run for office must expect to have his character analyzed. Our opponents spread them broadcast, and everything we have ever done in the past is brought to the light and discussed. When a man seeks an appointment his character ought to be analyzed in the senate just the same as when he seeks an election before the people; and I am opposed to secret sessions and opposed to executive sessions, and that is why I supported the motion to strike out the last part as it is. I think the argument made by my colleague really is in favor of an open session. He says that if you have open sessions the characters of appointees cannot be analyzed, and that men will hesitate to speak their true feeling on that matter. I say that will have tendency to make the appointing power appoint men whose character can bear the sunlight of day. I think that is the ultimate result of it.

Mr. GRAY. The result will be party lines all the time.

Mr. HASBROUCK. I cannot for the life of me see why, if a man is to procure his office by appointment, he shall object or be less criticized than the man who procures it by election. When he procures it by election all the batteries of free speech and free press are turned loose upon him, and in this case these appointees are not to be investigated in that manner whatever. Their investigation must be in secret by a few men who represent only a portion of the people really, and therefore I shall oppose it.

Mr. GRAY. As I said before, it will just have this tendency, that party lines are not always opposed in an appointive office; but I understand clearly the result will be that it will be made a party matter in the confirmation or ratification of nominations of the governor. When, under other circumstances with a secret ballot I may be in favor of a man, I may vote for him, can vote as I see fit; it will let me vote for the best man; but so many men are so tenacious and so anxious to make a political record that they will be forced under the cir-

cumstances of an open session to vote for their party man rather than for the best man.

Mr. AINSLIE. I would answer the gentleman from Ada that that does not necessarily require a man to vote by ayes and nays in voting upon a confirmation of an appointee in the senate. They can vote by ballot, and I believe it has been always done. It was when I was in the council of the territory upon whether they would confirm or reject, and nobody knows the votes for or against, and if he gets a majority vote he is confirmed.

Mr. GRAY. What good is there then, in this, if you want the open door, if you allow a vote by ballot so that it is not known how any one votes?

Mr. MORGAN. This question has been discussed for some time, and I think we are spending too much time over it, unless the gentleman from Shoshone desires the floor to speak to his amendment.

Mr. CLAGGETT. I just want a moment; I don't want to take up any time. I was opposed to the section as it was because it left it in the power of either house to sit in secret session upon public measures, and for that reason I voted to strike out the latter part of the section. But the theory upon which we are proceeding in the matter of appointments is, that the power of appointing shall be equally divided between the governor who nominates and the senate which confirms, and I do not wish the senate to be hampered so that it will not have the power in confirmation inferior to the power of the governor, in nominations. That is the point. The governor can go and make secret inquiries everywhere. When he sends in his name of the nominee he is not required to give any reason why he appoints. If you take away the power of the senate to have the same power which the governor has to inquire into all those matters in any way, secretly or otherwise, relating to the propriety of that nomination, the effect of it will be to put the whole executive power of the state, so far as the governor is concerned, almost unchecked in his hands,

and I am not in favor of it. I want the senate to have the same power to inquire into the reasons for confirmation that the governor has secretly to inquire into the reasons for the nomination; and I do not want this matter to be brought up necessarily in open session, and the amendment I offered does not require that it shall be done secretly, but to say that they may do it if they see fit to do it. Because otherwise your governor will make a nomination, the nomination will come before the senate, senators will have to sit there or else make targets of themselves, perhaps at the instance of powerful corporations and combinations who may be behind the nomination of the governor; and there is many and many a man, who, rather than to make an open assault upon the propriety of a nomination, although secretly opposed to it for good reasons, will quietly allow the nomination to slip through without being carefully scanned and considered. And I desire to retain the functions of the senate in confirmation as fully and completely as the power of the governor in making the nomination.

Mr. POE. Mr. Chairman, the argument of the gentleman from Shoshone has no foundation in fact. He says that it would prevent those senators from making this secret investigation as to the character of the party whom the governor had nominated for an office. Now, I would ask how it prevents senators from going around and making inquiry as to the honesty and competency of the nominee? All we strike out and all we propose is this: That when they do sit upon that matter of the confirmation or rejection of that appointment, they shall do it openly before the world. If any senator desires to make any address, why he opposes that nomination and gives his reasons therefor, he shall not do it under closed doors, but he shall do it openly. If he does not desire to speak and wishes to vote without speaking, he can do so, and as Mr. Ainslie says, he need not have the eagle eye of a corporation upon him, or the eyes of the friends of the nominee whom he does

not wish to offend. He may, though that argument as to qualification may be made publicly, when he comes to deposit his vote yea or nay on the confirmation, do it secretly with the secret ballot. Once dropped in the ballot box no living human being except himself and his God may know whether he voted for confirmation or rejection.

Mr. MORGAN. I call for the previous question. (Seconded).

The CHAIR. The question is, the demand made by the chairman of the committee for the previous question. Shall it be sustained? (Vote and carried).

The CHAIR. The question is sustained. The question now recurs upon the amendment of the gentleman from Shoshone. The clerk will read it.

SECRETARY reads: Add to the end of Section 12 as amended, "provided, that the senate may sit in secret session when acting upon nominations that have been made by the governor." (Vote).

The CHAIR. The chair is in doubt.

Upon the rising vote there were ayes 20, nays 24, and the amendment was lost.

The CHAIR. The question now recurs upon the adoption of the section as originally amended.

Moved and seconded that the same be adopted.

Vote and carried.¹

SECTIONS 13, 14, 15, 16, 17 AND 18.

Sections 13, 14, 15, 16, 17 and 18 were read, voted on separately, and each adopted without debate or amendment.

SECTION 19

Section 19 was read.

Mr. CLAGGETT. Mr. Chairman, I offer the following amendment.

SECRETARY reads: Amend Section 19 by adding

¹—A substitute for this section was adopted later on.

after the word "seats" in line 28, "unless the law authorizing the change shall require that three-fifths of the legal votes cast at a general or special election shall designate the place to which the county seat shall be changed."

The CHAIR. I would say to the gentleman that the committee on County Government has provided for that.

Mr. CLAGGETT. Do I understand the chair to say they have incorporated in the constitution a method for changing county seats?

The CHAIR. No Sir, but have incorporated how counties may be divided and organized, and determine the subject.

Mr. CLAGGETT. Then I move to strike out line 28.

The CHAIR. I would state for information of the convention that everything of that kind comes up under that head, and if this line 28 were stricken out you would have the whole question brought up again in the report on County Government.

Mr. CLAGGETT. I withdraw my amendment then and move to strike out line 28.

Mr. MORGAN. I have no objection to striking it out.

Mr. MAXEY. I would like a little information with reference to line 9, "changing the names of persons or places." In case a man wants his name changed, or people want the name of a town changed, who shall do it?

Mr. MORGAN. The legislature shall provide by a general law for the changes the gentleman speaks of; either changing the names of persons or the names of places. It is done in court now.

Mr. POE. I would understand then that if a man by the name of Smith wants his name changed it would affect every man in the state whose name is Smith; it would have to reach all the Smiths.

Mr. MORGAN. It seems to me strange that gentlemen do not understand this section. That same proposition has been presented to me two or three

times. The only thing this section means is, that the legislature shall provide by a general law for the application to the court for a change of name, if any person desires his name changed. We have a law upon the statute books now which authorized the district court to change the name of any person who makes application.¹

Mr. SHOUP. The delegate having this bill in charge, as I understand, consents to have line 28 stricken out in regard to changing county seats. Now, as I understand it, this prohibits the legislature from making special acts for one particular county, giving that county alone the power to change the county seat. The law in the bill as reported by yourself, is a general law for all the counties; and as I understand it, that would not prevent the legislature making a special act for some particular county if this line is struck out.

The CHAIR. I would state for the information of the gentleman from Custer that we stated in our report (I do not remember the verbatim language) that no county shall be divided *unless*, and no county seat removed, *unless*. So that it would prevent the legislature from passing any special or general law either except as provided in that clause.

Mr. MAYHEW. Do I understand, Mr. President, that the committee on Counties has incorporated a provision by which the legislature shall be governed in relation to county seats?

The CHAIR. Yes.

Mr. MAYHEW. If that is the case then I must support the motion of my friend Mr. Claggett to have line 28 struck out.

Mr. SHOUP. That report has not been adopted, and if we strike this line out, for all we know the other may be changed. I think we better leave it in so that the legislature cannot make any special laws in regard to counties.

¹—Secs. 5245-5248, Rev. Stat. 1887.

Mr. MAYHEW. I am opposed to this provision anyhow.

Mr. WILSON. I would like to have the secretary read the report of the committee on Counties and Boundaries.

The CHAIR. I think it is in the hands of the printer.

Mr. WILSON. I think I saw that report, and my understanding of it is that it would not prohibit a special act changing a county seat if that report is adopted by the convention.

The CHAIR. I drafted the report and the language is, "no county seat shall be removed unless upon a petition of a majority of the citizens and a vote of two-thirds."

Mr. WILSON. But your report does not say by general law.

The CHAIR. No, it says "no county seat."

Mr. WILSON. Then the legislature might enact that the county seat of Ada county may be changed in accordance with that report, if it is adopted by this convention.

The CHAIR. Under a vote of the people, under the constitution, if the report is incorporated.

Mr. WILSON. But that would not prohibit a special law, and I don't think this ought to be stricken out.

Mr. SHOUP. I think this line ought to be left in here.

Mr. MORGAN. Those words may seem to be in conflict with the proposition that is proposed to be adopted, that is mentioned by the president, but they can do no harm by remaining in the section, and therefore I think they better remain, and I will withdraw my consent.

The CHAIR. The question is upon the adoption of the amendment of the gentleman from Shoshone to strike out line 28.

Vote and lost.

The CHAIR. The question now recurs upon the adoption of Section 19.

Vote and carried, and Section 19 was adopted.

SECTION 15.

Mr. McCONNELL. I move to reconsider the vote by which Section 15 was adopted.

Mr. WILSON. I rise to a point of order, that it is not necessary to make a motion to reconsider.

The CHAIR. I do not think it is necessary.

Mr. HEYBURN. We are not in committee of the Whole now.

The CHAIR. We are in convention, I am reminded. The gentleman from Latah moves to reconsider the vote by which Section 15 was adopted. (Seconded).

Mr. McCONNELL. I make this motion for the purpose of offering an amendment. We acted rather hastily on this. There is one provision here which is quite customary to constitutions, I think, that after a certain date, in the legislature it will require a two-thirds vote to bring up any question, and any member who is familiar with legislation knows that under that rule necessary laws are often defeated. You take large corporations which are beginning to rule our country; they have attorneys in every legislative body in the country, I think, and it is their business to defeat legislation which will react against those corporations; and to do so all they have to do is to get a bill referred to a committee, which will delay its report, and thus require a two-thirds vote of the house to get the bill through. I think where a majority of the members of either house see the necessity for the passage of a bill, they ought, in a case of emergency, to have the right to take that bill up. It is not confined entirely to corporations. Localities sometimes prevent the enactment of laws. I saw a very unjust and unparliamentary thing once in the Oregon legislature, where the members from the city of Portland proposed to defeat an act providing for the building of an insane asylum. The insane of Oregon had been leased out to certain parties to board

them, and the people of the state were clamorous for the building of an insane asylum. The members of the city of Portland, thinking it would injure their town to have the insane moved to an asylum, went to work and delayed this legislation to the hour when it required a two-thirds vote to take it up. Upon motion it was clearly out of order, and the chair so decided. They appealed from the decision of the chair and took it up and passed it anyway; but it was a very unparliamentary and unjust thing so far as the president of the senate was concerned. I would like to provide in this section that no such state of affairs may occur in a future legislature of this state. Where a majority of the members in the body think the bill is a necessary bill, they should have the right by a majority vote to take it up and pass it. I therefore move the reconsideration of the vote by which Section 15 was adopted.

Mr. MAYHEW. This matter of reconsideration is not debatable, but the gentleman has stated his reasons for making the motion; and I want to ask the gentleman if he intends to amend the section for that purpose.

Mr. McCONNELL. Yes, I desire to offer an amendment.

Mr. MAYHEW. Then I support the motion.

Mr. MORGAN. It seems to me the argument offered in favor of reconsideration has not very much force.

Mr. MAYHEW. Mr. President, is this a debatable question?

The CHAIR. The point of order is well taken; it is not debatable. The question is shall the vote by which Section 15 was adopted, be reconsidered.

Vote and lost.

SECTION 19.

Mr. CLAGGETT. Mr. Chairman, I now renew my amendment to Section 19, to add after the word "seats" in line 28 the following: "unless the law authorizing the change shall require that three-fifths of the legal

votes cast at a general or special election shall designate the place to which the county seat shall be changed.”

Mr. MAYHEW. That section has been disposed of.

Mr. CLAGGETT. I beg the gentleman's pardon. On the statement made by the chair that it was covered by another bill I withdrew the amendment and moved to strike out line 28. The vote was taken on the motion to strike and voted down, and I now renew my amendment.

The CHAIR. The section has been adopted.

Mr. MAYHEW. That is what I say; I call your attention to the fact that we had voted down your amendment and adopted the section.

The CHAIR. Your motion must be to reconsider.

Mr. CLAGGETT. Mr. Chairman, I did not know that the section was adopted at all. I move to reconsider. It is a very important matter. Leaving the thing in the shape it is now is costing our county \$15,000 a year unnecessarily. All the population and wealth of the county away, and we have to pass over two ranges of mountains to get to the county seat and are being bankrupted by this proposition.

Mr. MAYHEW. I voted against the motion, and I cannot make a motion to reconsider. If some person that voted in the affirmative will make the motion——

Mr. MORGAN. Will the gentleman explain the reason why he desires it?

Mr. CLAGGETT. I will do so. There is no possible objection to passing a special law for the removal of a county seat, provided it is required in the law to be submitted to the vote of the people in the county, and three-fifths of the voters are required to vote in favor of the change. The trouble with regard to leaving the matter to the general law is, that I am fearful if this provision to which the chair has referred in another article does not execute itself, and leaves anything to the legislature to be passed in the shape of a general law, that there never will be a general law passed in the next ten years, and these counties will be ever-

lastingly destroyed and eaten up with expenses. As we know, for the last four years two whole sessions of the legislature have been taken up to get rid of this restriction contained in the Symms Bill passed in congress,¹ and after working at it two whole sessions of the legislature, the last one and two years ago, it was found to be utterly impossible to pass a general law. Now, I don't want to have this thing coming up here forever.

Mr. MAYHEW. Not last winter?

Mr. CLAGGETT. There was a bill introduced and fought on; I read the bill myself.

Mr. MAYHEW. We had no debate on it last year, because we had no power to do it.

Mr. CLAGGETT. To pass a general law?

Mr. MAYHEW. Yes.

Mr. CLAGGETT. Why no; the Symms Bill provided that no territory should pass a special law; but authorized the passing of a general law, and this was a general law.

Mr. MAYHEW. Let me correct the gentleman. It was this way. In the house there was a general law introduced making county seats removable—a county seat here one year and somewhere else next year, and that did not create any delay in the legislature over two days. But two years ago the house consumed about three weeks discussing the change of county seat and dividing the county of Alturas.

Mr. CLAGGETT. I am talking about the passage of a general law for the removal of county seats.

Mr. MAYHEW. Well, I will say that he was right; I was not in the legislature; I have forgotten about that.

Mr. CLAGGETT. I know two years ago it was up, and last winter I know the bill was introduced, for I read the bill.

Mr. MAYHEW. I sent it to you for that purpose.

Mr. CLAGGETT. Well, I will ask the gentleman

¹—Act of July 30, 1886; 24 Stat. L. 170; 1 Rev. Codes Ida. p. 45.

as to whether any general law was passed last winter on the subject.

Mr. MAYHEW. There was not.

Mr. CLAGGETT. I will ask you whether there was not one introduced and considered.

Mr. MAYHEW. I just told you there was one in the house and considered by the committee and voted down.

Mr. CLAGGETT. I understand that, and that is just what I am talking about. But I am fearful if this proposition goes in broadly, that the legislature shall under no circumstances pass a special law for the removal of a county seat, we will not be able to get a general law passed by the legislature. And therefore I think this amendment ought to be added at the end of line 28 so that the legislature may pass special laws, providing those special laws contain certain facts; that they shall not pass a special law saying that a county seat shall be changed from Smithville to Jonesville, but that it may say that it shall be changed from Smithville to Jonesville, providing that at a general or special election held under the laws of the territory three-fifths of the voters shall be in favor of it, and in that view of the case there is no conceivable objection to the passage of special laws by a legislature to remove a county seat.

Mr. WILSON. Make it three-fourths.

Mr. CLAGGETT. No Sir, I will not.

Mr. POE. I rise to a point of order, to inquire what is before the house.

The CHAIR. The question before the house is the motion of the gentleman from Shoshone to reconsider Section 19, and the gentleman by consent is explaining his reasons for making the motion. The question is not subject to debate.

Mr. SHOUP. I don't think the rights of your committee should be evaded while you are in the chair and unable to defend it. I think in the article on Counties and Boundaries is the proper place for this provision which the gentleman from Shoshone desires to have in

the constitution, and that is where it should be. It is not here.

The CHAIR. I will state to the gentleman that the committee on Boundaries has provided that no county seat shall be moved unless three-fifths of the voters of the county have agreed to it, and it must be voted upon on a petition of the majority of the voters. But the point made by the gentleman is that a general law will be inoperative without some provision to be provided for here that the legislature can pass special laws with those inhibitions that we have already included in the county report.

Mr. GRAY. I think it is very proper, too, if you want to give any force to the portion of the bill on Counties and Boundaries.

The CHAIR. Which will not interfere with the provisions at all.

Mr. GRAY. Well, when you say by special law you shall not change it, would not that be in conflict with the provision that it——

Mr. MAYHEW. I call the gentleman to order. This is not a debatable question.

The CHAIR. The point is well taken; it is not debatable. The debate was proceeding by general consent. The question is, shall Section 19 be reconsidered?

The question was put.

The CHAIR. The chair is in doubt.

On the rising vote, ayes 28, nays 1.

Mr. MAYHEW. I now move that the convention take a recess until two o'clock. (Seconded).

LEAVES OF ABSENCE.

Mr. Parker was, without objection, excused until Tuesday morning next.

Mr. Pritchard was granted indefinite leave of absence on account of important business.

The motion to take a recess until two o'clock was carried.

AFTERNOON SESSION.

Convention called to order by the vice-president.

The CHAIR. The question before the convention at this hour is the report of the committee on Engrossment on the bill entitled "Legislative Department."

Mr. HASBROUCK. Mr. President, your committee on Engrossment is ready to report.

The CHAIR. Gentlemen, I will have to state to the convention that when there is so much noise and confusion in the rear of the hall the reporters cannot catch what is going on. I will have to ask the convention to bear in mind this fact so that we can try to keep a perfect record, that everything may be taken down by the reporters.

ARTICLE XV.— IRRIGATION.

The secretary reads the report of the committee on Engrossment on the article, Agriculture and Irrigation.

The CHAIR. The committee having reported that the bill is correctly engrossed, the question is now on final reading.

Mr. WILSON. I move that we proceed to consider that bill now.

Mr. CLAGGETT. I thought that was covered by the motion of Mr. Heyburn yesterday, that final reading was set for two o'clock today.

The CHAIR. Yes, so it was. The clerk will read the article.

The clerk reads the article as engrossed.

Mr. AINSLIE. I move the adoption of the article.

Mr. GRAY. If I understand the reading of this bill, it stands just in this position, that the man who locates the land first is entitled to the first water. If such be the case I shall oppose it, for this reason: That is, I do not know whether a man located with the idea that he is to have the water, but it would appear from this bill that he shall be the first man served, though it

may be ten miles from the head of the ditch; and I do not care how many farms intervene, double the amount required to irrigate his farm is wasted in getting it to him. Another thing: It would appear from this bill, as I understand it—and I mean eventually to use all that water myself, but that I have land that is not in a condition at that time to use the water—that I should be deprived of it because I have let a man have it a year or two or three or four or five years, just as the circumstances might be. Now, I want to understand this. I don't want to restrict anybody, and my idea is that the law as it stands now in relation to this water is that the first man as you come from the head of the ditch should be served, and any which should pass his land or any man's land that is willing or able to pay for the water, should go to the next below. But I don't believe in running it by anyone, but let it be used from the head of the ditch as far as there is a sufficiency of water to be sold. But don't deprive me of it because I sold it for a few years; don't say therefore that I must be deprived of it for years thereafter. It would seem to me that that would be the understanding of this bill. I say the first man should have the use. If he does not use the waste water before it gets to the land lower down on the ditch, let the first man below have a right to its use when he is willing to pay for it. That I believe is the only correct principle as it now stands in our state.

“Question, question.”

The CHAIR. The question before the convention, as several members have come in, is the article on Manufacturing, Agriculture and Irrigation. It has been reported correctly engrossed by the Committee on Engrossment, and is now on its final reading. As many as are in favor of the adoption of this article as engrossed will, when their names are called, say aye; those opposed say no.

Roll call:

Ayes: Allen, Armstrong, Ainslie, Anderson, Bevan, Blake, Brigham, Campbell, Chaney, Clark, Coston, Crook, Hampton, Harkness, Hasbrouck, Hays, Heyburn, Hogan, Jewell, King, Lamoreaux, Lewis, Maxey, Mayhew, McConnell, Melder, Meyer, Pierce, Poe, Pyeatt, Reid, Robbins, Sweet, Underwood, Vineyard, Mr. President—36.

Nays: Glidden, Lemp, Morgan, Pinkham, Shoup, Wilson—6.

The CHAIR. Under the rule it goes to the committee on Revision, to become one of the articles in the constitution.

ARTICLE III., SECTION 19.

The unfinished business under consideration at the hour of recess was reconsideration of Section 19 of the report of the committee on Legislative Department. Section 19 is now up for consideration. What is your pleasure?

Mr. CLAGGETT. I will offer an amendment.

SECRETARY reads: Amend Section 19 by adding after the word "seats" in line 28 the following: "unless the law authorizing the change shall require that three-fifths of the legal votes cast at a special or general election shall designate the place to which the county seat shall be changed. (Seconded).

Mr. SHOUP. Mr. President, as I understand this motion, the legislature at any time can provide that any one county can hold a county seat election; then it will require three-fifths to change the county seat. If that is correct, I am opposed to it.

Mr. CLAGGETT. The object of the amendment, Mr. President, is to enable the legislature to pass, if it sees fit, a special law, subject to certain restrictions as to any one given county. Those restrictions are the same restrictions, as I am informed by the chair, as the convention was informed, rather, as were provided for to be embraced in a general law which is provided for in the article relating to county organization, and are to be embraced in any general law that may be passed on

the subject. The reason why it is necessary to put this language in here, inasmuch as the convention has refused to strike out the line prohibiting the passage of special laws, is to guard against the possibility—it is more than a possibility, it is a probability—that the legislature will never be able to agree upon a general law. And if the legislature does not agree upon a general law containing these provisions, which I have embraced here, and it is prohibited from passing a special law, the action of the convention by retaining this last line as it is now will operate to put in the constitution a provision that the county seats of this state shall never be changed. That is about what it comes to.

Mr. SHOUP. If the legislature will not agree upon a general law, is it probable they can agree upon any act for any one particular county?

Mr. CLAGGETT. Yes, the reason why they cannot agree upon a general law is because the general law has to be uniform in its operation in all counties, and in one county the terms of your general law may be all right, but in another county the people may not want it. The entire people of the county may want a change of the county seat, and yet they may not agree to the terms of the general law. In another county still your general law will be objectionable to the representatives, and the consequence is when you take into consideration all the various interests represented in the various counties it will not be possible to agree upon a general law. Then we have put in the constitution that you can never change a county seat by retaining this proposition forbidding special legislation. As I said this morning, there is no conceivable objection to allowing the legislature to pass a special law relating to the removal of county seats, provided that special law is so governed by necessary limitations as to the number of votes to be cast as to make it unobjectionable. The fact of the matter is, I am not in favor of so hampering the freedom of the legislatures as is provided in this bill. But I only make an objection to this one particular thing;

and what we have got to guard against is tying the legislature up in such manner that it cannot properly perform the functions allotted to it. And it does seem to me that this great multiplication of cases in which they cannot pass any special law at all is liable to fasten a condition of things upon the state, which we will be sorry to see in a very short time.

Mr. WILSON. I sincerely hope that amendment will not prevail. If it does, it is virtually striking out of this article this subdivision, line 28, changing county seats; because it means that a special law can be passed at any time, providing the conditions of that law are that before the county seat shall be changed three-fifths of the legal voters in the county shall vote therefor. In other words, if Alturas county wants to change her county seat, and the legislature passes an act authorizing it to be submitted to a vote of the people of Alturas county, and three-fifths of the voters of that county so decide, the county seat is changed. I think it would be a very detrimental section to put in here. Three-fifths is only a little more than a majority, especially where we have so small a vote. Most of the counties do not poll a thousand votes; three-fifths would be 600 votes. In other words, if 600 votes out of 1,000 choose to change a county seat, they can do it. And it is a well known fact in all legislative bodies in Idaho territory where a solid delegation asks for a measure affecting their county only, it is almost universally conceded to them, so if three-fifths of the voters of any one county want to change the county seat it would then follow that they will elect their delegation to the legislature, and then it follows that the delegation will have what legislation they want affecting particularly their county. In other words, they will have a bill passed authorizing their county to submit to the people of that county the question of changing the county seat, and 600 votes out of 1,000 can change it. This question of changing county seats is one of the most vexing questions that ever disturbed this or any other people. It

has caused more trouble in new countries than any other question that has come before the people; and in some of the western states, notably in Kansas, the question has led to insurrections, to little rebellions, small civil wars between two rival towns, and public records and books of the county seats have been taken away from one town by armed men by force, and bloodshed resulted therefrom. I don't think it would be a wise plan to leave it to three-fifths. I suggested to the gentleman that he make it three-fourths of the voters, but I would not insist on three-fourths, because that is such a majority that it is almost unanimous consent; but three-fifths amounts to very little more than a majority, 600 out of 1,000, if you please.

Mr. CLAGGETT. Make it two-thirds and I will accept the amendment; I want a decent majority.

Mr. WILSON. I think that question will always be before us. I think if it is left to the legislature, there will not be more than two or three counties in the state that will not want to change the county seats.

Mr. MAYHEW. I understand the gentleman makes no objection to the amendment if it was three-fourths. I am glad to have the gentleman pleased to accept that. I just desire to say this: While I am somewhat opposed to the legislature having the right to pass special acts for the removal of county seats, yet there are instances in this territory, as has been before pointed out, where it is absolutely necessary that there should be some special act authorizing the removal of a county seat to some other place in the county which is more the center of population. The county seat should be where it is accessible, and, in fact, in the center of population. For instance, I can give you an illustration. If the county seat in Shoshone county had not been removed from Pierce City to Murray or Eagle City at the time it was done, the great majority of the people in our county—in fact, all the people in our county with the exception of about 50 or 60 persons—would have been required to go over a country that was really not accessible,

involving a great many hundred miles' travel around to the county seat by way of Lewiston, in order to get to Pierce City. Now you can see that in one period of the history of Shoshone county it was necessary that the county seat should be at Pierce City, because that was the only place where any people lived. Now conditions have changed, and so it is with us. The majority of the people in our county desire that the county seat may be changed in our county, because it is about twenty miles from the railroad, and the principal part of the business of our county, so far as it relates to business that must be done at the county seat, must be done at a place where you have got to pass over two mountain ranges. A small minority only would have to go over those ranges to get to the county seat if it was on the railroad; but as it is I believe now that more than three-fourths of the people in our county have to cross over that stretch of country. More than that, Mr. President, when a person has a suit in our courts he is required of necessity to take his witnesses to the county seat and keep them there a week or ten days at a heavy cost. So that the cost of litigation in our county in that respect is enormous. If the county seat was somewhere on the railroad, the witnesses could all be got along the line of the road running up the south fork at any time on five or six hours' notice, saving litigants a large amount of money. But as it is, in our county where a case comes up between parties living on the south of it, in order to get there they must have their witnesses there and keep them there day in and day out, because many cases pass off by demurrer, some continued, and a case is liable to come on for trial when your witnesses are not there, unless they are held continuously. It now costs men having litigation in our county a large amount of money, and I hope some method will be reached which will authorize the legislature in certain cases to pass special acts. I am not in favor of special legislation, I admit, but there should be something done to meet these cases of emer-

gency which the people in these different counties demand. I think it can be reached by this amendment of Mr. Claggett's, and if that does not, some other amendment can be introduced.

Mr. MORGAN. I cannot see the force of the argument of the gentleman from Shoshone, for this reason. This law is not intended to prevent the changing of county seats by any means. There is nothing in this bill as it stands that will prevent changing the county seats as soon as you can hold an election after the meeting of the legislature. I suppose there are half a dozen counties situated like Shoshone county, or the counties the gentleman speaks of, in this territory today. Every one of them, if the law is changed in the manner in which this amendment seeks to change it, must come to the legislature when it meets, and lobby through a special law for the purpose of changing the county seat in those different counties. Now suppose they all unite and succeed in getting a general law passed; they certainly could get a general law passed for changing all county seats at certain times much easier than they could get special election provisions for each county. At the first legislature there should be a law passed authorizing under certain circumstances the changing of county seats by a three-fourths or three-fifths vote, or whatever vote the people see fit to make necessary. Then they can go to work and change their county seat. The objection to having special legislation for changing county seats is this: That after the passage of the law authorizing the changing of county seats in any particular county or counties and the people vote to change it, at the next session of the legislature the people opposed to that change in a county seat come to the legislature and ask to have a law passed asking the right to vote upon this question again. For instance, take these two new counties; it is possible there may be a struggle between the different towns in the counties for the county seats, Rocky Bar and Mountain Home. You pass a general law allowing the people of Elmore county by a three-fourths

vote to change the county seat, if they can pass that law, it then goes to Mountain Home or some other town. In the next two years Rocky Bar men will come back and ask for another law which will give them permission to vote upon it. There should be a general law enacted allowing a three-fourths majority to change county seats, and then providing that this vote should not be taken again for five years. Then this question would be at rest for a time. If you keep these counties forever pulling and hauling between county seats or between one place and another, you will forever be having elections at great expense and bitter feeling. As was well said by Mr. Wilson, they are the bitterest fights that occur in any country, and lead to blood-shed in the older states and communities. So it should be provided by general law that they could not keep coming to the legislature and asking for bills to change county seats every two years. If the general law makes provision for it, you can all vote for a change in the county seat of every county in this territory, if you see fit to. But having been settled, it remains settled for five years under that general law, and then they can vote again if they want to, or put in a longer limit, ten years or three years or four, but prevent this continual voting for a change of county seats.

“Question, question.”

Mr. HARRIS. I have an amendment.

SECRETARY reads: I move to amend the amendment by striking out the words “three-fifths” and inserting in lieu thereof “two-thirds.”

Mr. CLAGGETT. I will accept that amendment. Now, Mr. President, just one word. I want to ask the gentleman from Ada this question: Does he claim that two-thirds of the voters of the county shall not be permitted to have their way with a matter that affects their interests, that affects the question of taxation, that affects their conventions and the holding of their courts and the administration of justice?

Mr. WILSON. Because I think it would injure them to change the county seat.

Mr. CLAGGETT. It is not for the gentleman to say whether it would injure them or not. That is a question that belongs to the primary parliament of the people, and no member of a convention and no member of a legislature has any right to deny to the people an opportunity of passing upon matters of great public concern. It is a usurpation of the rights of the people. I am willing to and do concede that these elections in behalf of the removal of a county seat should not be allowed to come on too frequently, and I am willing to and do concede that the majority should be placed at a figure sufficiently high to prevent some sudden transport of passion or anything of that kind from carrying by a bare majority. But I wish this convention to bear in mind that every proposition for the change of a county seat necessarily involves a considerable degree of expense. Taxpayers who are voting in favor of the change will not vote to create this expense unless there is some grave public necessity for the making of the change, and that certainly is a sufficient protection against any too sudden, violent or unnecessary change in a county seat. And I don't think it is becoming for this convention to put in the organic law a proposition to deprive the people of that which they have a right to, namely, the right to vote upon public questions of grave public concern.

Mr. MORGAN. May I ask the gentleman a question?

Mr. CLAGGETT. Certainly.

Mr. MORGAN. If I understand your argument then, you are not in favor of allowing the people to take a vote too frequently?

Mr. CLAGGETT. Certainly; I do not think they ought to do it; I think this matter of changing the county seats should be subject to certain healthy restrictions. I suggested that, but the way you have it now, in case the legislature shall fail to pass a general law, you fasten these county seats where they are forever; and I say it is a doubtful proposition as to whether the legislature will pass that law.

Mr. WILSON. I want to answer the gentleman. I am in favor of a general law affecting this matter, and then I would be in favor, if the legislature saw fit, of passing a law that a bare majority of the voters in any county in this territory shall change a county seat. I am in favor of a general law, not a special law, and if it comes to a special law I ask that three-fourths of them vote to carry it. I will concede special legislation to affect one town, provided three-fourths of them want it so; but when it comes to a general law, then I say let a majority of the voters decide it.

“Question, question.”

The CHAIR. The question is upon the adoption of the amendment proposed by the gentleman from Shoshone. (Vote). The chair is in doubt.

A rising vote was taken, resulting ayes 28, nays 12; and the amendment was carried.

Mr. CLAGGETT. Now I wish to offer another amendment which I think is a proper restriction in the the business. I want to have it appear in this way: That in case the legislature passes a general law upon this subject, that then the power to pass special laws shall cease. And I want to put in here giving them the power to pass special laws if they do not pass general laws; but if they do pass a general law, then the power to pass special laws shall be at an end.

Mr. GRAY. If I understand the gentleman, it is this, that he wants to legislate for Shoshone county.

Mr. CLAGGETT. No sir, I am not doing that.

Mr. GRAY. And if they cannot get a general law that hits, then he wants a special law.

Mr. CLAGGETT. No sir, I offer it in favor of the interests of the gentlemen who have voted against the original amendment. If they object to it I will withdraw it.

Mr. GRAY. I object to it all.

The CHAIR. I think we ought not to pass over these with such haste. If there is no objection we will informally pass over this section while the gentleman

is preparing a substitute for the line, and take up Section 20. Is there any objection? The chair hears none. The secretary will read.

SECTION 20

SECRETARY reads Section 20.

Mr. AINSLIE. I desire to move to strike out a few words in that section. Strike out "game of chance," in line 1, Section 20. Under the present laws of Idaho Territory, games of chance, such as what they call banking games, are licensed under the territorial law, and I think in my county alone probably \$2,000 is derived from that fund alone that goes to the school fund of the county. Now, then, we do not believe in a lottery or gift enterprise, but you cannot smother them by law any more than you can legislate religion or politics into a person. They will play those games of chance. The Chinese particularly. In my county, I do not know how many Chinese games there are, but they are licensed and pay \$50 a quarter and every dollar of that I think goes into the school fund. We are enabled in those mining counties, where a large proportion of the Chinese population lives, to support the schools longer during the year, probably half as much longer, by reason of the revenue derived from those games of chance that are played by the Chinese, and you cannot stop it, and I do not see why we should not derive the benefit of it to the rising generation. Therefore, I move to strike out those three words.

Mr. MAYHEW. I would like to have some member who had that incorporated tell me what a game of chance is. There is no such thing as a game of chance in gambling; it is all on one side (laughter). There is no chance about it. If a man puts down \$5.00 on a faro game, ten chances to one—and that is no chance at all—he loses it. I know very well there is no such a thing as a game of chance. I am like my friend; I want to have it stricken out; it is a game of skill.

Mr. GRAY. I am in favor of the section as it stands.

If the gentleman from Boise wants to send men out to steal to raise money for the school fund, let them do it according to the methods of the road, not by law.

Mr. MAYHEW. If a man is fool enough to take the chances in gambling, he ought to lose his money.

The chair put the question. The vote was taken and a division called for. On the rising vote there were 31 ayes and 12 nays.

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

Mr. MAYHEW. I move to lay the motion on the table. (Seconded. Vote and carried).

The question was then upon the adoption of Section 20 as amended. Vote and carried.

SECTION 21.

Section 21 read, and it is moved and seconded that it be adopted. Vote and carried.

SECTION 19.

Mr. CLAGGETT. Mr. Chairman, I now beg leave to offer this as a substitute to line 28 as amended.

The CHAIR. Without objection, we will return to Section 19.

SECRETARY reads: Changing county seats, unless the law authorizing the change shall require that two-thirds of the legal votes cast at a general or special election shall designate the place to which the county seat shall be changed, *Provided*, That the power to pass a special law shall cease as long as the legislature shall provide for such removals by general law.

The CHAIR. The amendment is offered as a substitute for line 28.

Mr. AINSLIE. I understand this is not to strike out the line, but to follow the word "seats."

Mr. CLAGGETT. It is a substitute for that line; I have incorporated that line in the substitute. It is a substitute for the whole section. It provides that whenever the legislature shall provide a general law, the power to pass a special law ceases.

The secretary, upon request, reads the entire substitute again as above.

Mr. HEYBURN. I have an amendment which I ask the mover of the substitute to accept: "Provided that no special law shall be passed for any one county oftener than once in five years." There should be some limit to the number of times an application can be made. I offer that as an amendment.

The CHAIR. Mr. Claggett offers a substitute for line 28 which you have heard read. The question is first upon the substitute.

The vote was taken upon the question; the chair was in doubt; a rising vote was taken which resulted, ayes 31, nays 7. And the substitute was adopted.

The CHAIR. Will the gentleman from Shoshone now send up his amendment?

Mr. HARRIS. I will offer an amendment to the amendment and instead of five, insert six; and then it will come according to the election years, and have the vote taken at a general election, and six will coincide.

Mr. HEYBURN. I will accept that amendment.

SECRETARY reads the amendment as amended: To amend by adding, "Provided that no special law shall be passed for any one county oftener than once in six years."

(" Question, question.")

The question was put by the chair. Vote and carried.

The CHAIR. The question now recurs upon the adoption of the substitute for the original section as amended.

Question put by the chair. Vote and carried.

Mr. CLAGGETT. I would like to ask the chairman of this committee one question. I notice that in line 3, Section 19, regulating the jurisdiction and duties of justices of the peace and constables, the words "police judge" also appear. I want to know whether the committee does not think the words "police judge" ought to be stricken out, because we will have various kinds of cities and towns, and some of them will require various police

powers, and to test the matter I move to strike out the words "police judge." They are local courts, and sometimes you want special powers, and sometimes otherwise. You can regulate it by general law.

The CHAIR. In Section 19, line 3, the gentleman from Shoshone moves to strike out the words "police judge."

Mr. HEYBURN. I second the motion.

Mr. MORGAN. I have no objections.

Question put by the chair. Carried.

The question was then upon the adoption of the section as amended. Vote and carried.

SECTION 22.

Section 22 was read, and it is moved and seconded that Section 22 be adopted. Vote and carried.

SECTION 23.

Section 23 was read.

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

Mr. HEYBURN. I have an amendment.

Mr. MORGAN. I suggest that the word "each" in the second line of that section should be stricken out; it is a repetition. I don't know whether either of the amendments offered will cover that or not. I ask to have that word "each" stricken out unless there is objection.

The CHAIR. The gentleman from Bingham asks unanimous consent to strike out the word "each" in line two. If there is no objection it will be so ordered. The chair hears no objection, and it is so ordered.

SECRETARY reads: Amend Section 23 by inserting after the word "session" in the fourth line, the following, "and shall receive the sum of 10c per mile each way by the usual traveled route," and strike out all after the word "legislature" in line seven, and all before the word "the" where the same appears the second time in the eighth line, and insert "they shall receive such mileage as is allowed for regular sessions." Heyburn.

I move to strike out the word "five" in line two, Section 23, and insert in lieu thereof the word "four"; and strike out the words "three hundred" in line three in said section, and insert in lieu thereof the words "two hundred and forty." Wilson.

Mr. WILSON. I make that motion because that conforms to the per diem allowances to members of the legislature under the act of congress; and I think it is all we can afford at this time. It is a well known fact that we must concede, if we allow members of the legislature to receive \$5 per day, they will enact a law fixing it at \$5 per day. And I have reduced this \$1 per day; we have had excellent men in the past legislatures, some of them are in this convention, and I think we can get them again at \$4 per day. And by adopting this amount we will save at one session \$3,240, which is a lot of money for an impecunious state like ours.

Mr. SHOUP. I wish to offer an amendment to that amendment.

SECRETARY reads: Strike out the word "ten" in line seven and insert the word "twenty."

Mr. MORGAN. Is it intended that shall read as it does now, "20c a mile each way"?

Mr. SHOUP. Yes, the gentleman from Ada offers an amendment to reduce the per diem to \$4 a day, and I offer an amendment that the mileage be increased to 20c each way, the same as it is now, instead of ten.

The CHAIR. The question is upon the adoption of the amendment of the gentleman from Shoshone.

SECRETARY reads: Amend Section 23 by inserting after the word "session" in the fourth line, "and shall receive each the sum of 10c per mile each way by the usual traveled route;" and strike out all after the word "legislature" in the seventh line, and add before the word "the" where the same appears the second time in the eighth line, "they shall receive such mileage as is allowed for regular sessions."

Mr. HEYBURN. Mr. President, I make this amendment simply that the mileage may apply to the regular

session, as well as the extra session. As it reads now, there is no provision for mileage at the regular session of the legislature. It applies only to the extra session. I believe it ought to apply to the regular session, and then say "the same mileage shall apply to the extra session."

The question was put upon the amendment last read. Vote and carried.

The question was then upon the amendment offered by the gentleman from Ada, which the secretary read.

Mr. WILSON. There is an amendment to that offered by Mr. Shoup.

The CHAIR. The question now recurs upon the amendment to the amendment by Mr. Shoup (strike out the word "ten" in line seven and insert the word "twenty"). that line has been stricken out by Mr. Heyburn's amendment. I suppose you apply it to the other part of it?

Mr. SHOUP. Yes.

The CHAIR. The question is upon the adoption of the amendment of the gentleman from Custer, changing the mileage from 10c to 20c.

Mr. HASBROUCK. That is an amendment to an amendment which is an amendment to another portion altogether. His amendment would state a different sum from what that of the gentleman from Ada does. If you vote down Mr. Shoup's amendment and then adopt Mr. Wilson's amendment you defeat just exactly what Mr. Shoup wants to do. You decrease by this much the compensation they are now allowed by congress.

Mr. SHOUP. By adopting my amendment, you pay the legislature just the same as it is now. I don't care how you put the question.

The CHAIR. The chair thinks it is an amendment to an amendment. It does not affect really the amendment of the gentleman from Ada which was as to the per diem. The amendment of Mr. Shoup is as to the mileage. The question is upon the adoption of his amendment, whether to increase the mileage from 10c to 20c,

Mr. POE. As I understand it, Mr. President, Mr. Wilson's amendment is that the word "five" be stricken out and "four" substituted in lieu of it.

The CHAIR. He then proposes to strike out "three hundred" and insert "two hundred and forty."

Mr. POE. Yes, and now Mr. Shoup comes in with an amendment to strike out "ten" and substitute "twenty." I think they are separate propositions entirely, and we should vote upon them separately, to-wit, first upon the one offered by Mr. Wilson, and then we can be better qualified to vote upon the other. It is a sort of mental journey—"go until near together, go."

The CHAIR. I understood the gentleman from Custer to waive his right, that he did not care whether they voted for it as his amendment or an independent one.

Mr. SHOUP. Yes.

The CHAIR. Then the question recurs upon the question of the amendment of the gentleman from Ada.

Mr. MAYHEW. I must say I am opposed to this amendment. I am in favor of the per diem and mileage as reported by the committee. I don't see the occasion to require the per diem and mileage of members of the legislature to be so small. I think the service of members of the legislature is certainly worth that of ordinary mechanics, and worth \$5 a day. They come here from their homes, they are not surrounded by the conveniences of home; they have to sacrifice their business; and for most of the members \$4 a day does not pay their expenses. A good many men will ask why, and say they can live on \$2 a day. That is true; I believe some can live on \$1 a day, perhaps some on less. But that is not the question at all, how cheaply can a man live or how extravagant he is. The question is about giving them a reasonable compensation in the legislature. I don't believe in requiring men who have any character at all as representative men—men who will sacrifice their business, mercantile, farming or any other business—to come away from home and live in the country in such a beautiful place as Boise is for \$4 a day. When

he comes to this place his associations are such that he cannot help but drink a little whiskey when he gets acquainted with some of the members of this convention; he is bound to drink more or less, although I am opposed to a man indulging in anything of that kind. (Laughter.) I think a member of the legislature should certainly have \$5 a day in consideration of the time he is from home, for it does not make any difference whether it is right in the midst of his business, whether winter, summer, spring or fall. He has got to make some sacrifices, and I believe he should get enough to justify him in coming. If my friend here lived anywhere else except in Boise where he has all the luxuries that surround him in his pleasant home, he might look at it differently; but he has to make no sacrifices while he is in the legislature. That is pleasant for him, but it is not pleasant for those who come long distances from other places. Another argument he advances is that it will save about \$3,200. Well, I don't think it is economy to do it. I ask any person in the world if he does not think members of the legislature, if they are men of ordinary ability, are not worth that.

Mr. GRAY. Oh no.

Mr. MAYHEW. Well, I don't know as my friend would be. But the fact is that I see mechanics right at home getting \$5 a day and they are not to any expense. But men who go to the legislature have to leave their homes, sacrifice their business, and I believe they should have as much as an ordinary mechanic earns in this town today, working but eight hours a day at that and living at home.

Mr. WILSON. I just want to answer one point Judge Mayhew raised. He said gentlemen could not afford to come here on \$4 a day. I will say that they did so when whiskey was two bits a drink, and I will add that there has been a universal reduction in every saloon in town except one or two, to a bit a drink, or two drinks for two bits.

Mr. ALLEN. I think there is something more seri-

ous than a matter of buncombe. I believe the people are in earnest when they insist upon an economical constitution, and for one I shall be opposed to increasing the expense of our schedule or the expenses of a state government and going to the people on any such proposition. For instance, if this is a business proposition, there are ten or eleven gentlemen in this convention upon the basis of the mileage paid legislators heretofore who will draw \$280 in mileage; and on the basis proposed by Mr. Shoup that would pay the expense of a large number of the members in addition to their per diem. That is four times the actual travelling expense over any known route, even in case they had no pass, which is sometimes granted. I believe this a pure business proposition, and for one, I propose to go to the people in adopting this state constitution, and I believe we can make a reduction of at least \$6,000 instead of \$3,000 as suggested by the gentleman, and I shall favor the reduction.

Mr. MAYHEW. I want to ask the gentleman one thing. When the committee reported to this convention that we were entitled to \$6 a day and mileage, did you have any objection then?

Mr. ALLEN. I was not on the committee.

Mr. MAYHEW. I will ask every member in this body if he is not perfectly willing to take his \$6 a day, if you can get it? The gentleman is willing to take it and so is every other member of this body.

Mr. ALLEN. I think public sentiment answers the gentleman very clearly, that the discount brings it to \$4 a day.

Mr. MAYHEW. It has got to be paid out of the treasury at last at \$6 a day. If I take your promissory note for \$5 and I have got to discount it at some bank at 30 per cent, does that make any difference?

Mr. ALLEN. Not at all; the gentleman's proposition is very clear, that is a different question. We are going to the people on a proposition when we have an opportunity of making an economical state government; and I merely suggest that the sentiment of the people of

Idaho Territory will back the proposition to make this a reasonable expense, but not a great expense.

Mr. MAYHEW. You say the people. If that is the only point that is going to affect this constitution, Mr. President, God help this constitution. If it is upon the simple fact that this constitution adopts a section which pays the members of the legislature \$5 a day, and that defeats the constitution, I am in favor of letting it be defeated. I don't think the people will stop and discuss that question. For most of the people I have talked with in every section of the state I have been in themselves think that the per diem of the members of the legislature is too small. There is no man in the world that has any price for himself or his profession or his business but what thinks \$4 a day too small for any man to get away from his home, and devote his time to the public good. Sometimes it does not always result that way, but I am speaking in general terms. There is no economy in it, I hope the amendment of the gentleman from Ada will be voted down.

(" Question, question.")

Mr. GRAY. I am fully convinced by the argument of the gentleman from Shoshone, and I would be in favor of having it \$10 a day. You would get better men. I think \$10 a day is little enough for men to have to come from their homes, it is little enough for a man to live here. My friend does not intend to go to the legislature; he wants some higher office.

Mr. SHOUP. Mr. President—

The CHAIR. I will again announce to the convention that it is impossible for the reporters to hear with conversation going on in audible tones, and also when there is confusion in the rear of the hall. They have reported that trouble, and I request members to try and keep as quiet as possible so that the reporters can catch what is said. When they lose one word in a sentence it breaks the sentence.

Mr. GRAY. There is little or no good in what is said.

Mr. SHOUP. I have no doubt but what the gentleman from Ada would be in favor of increasing the per diem, because he votes for every motion to adjourn and take a recess, and always votes against evening sessions; but when it comes to increasing the mileage, he will vote against that.

SECRETARY reads the amendment: Strike out the word "five" in line 2, Section 23, and insert in lieu thereof the word "four," and strike out the words "three hundred" in line 3, in said section, and insert in lieu there of the words "two hundred and forty."

The question was put by the chair. The chair was in doubt and a rising vote was taken, resulting, ayes 8, nays 34.

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

Mr. CLAGGETT. I second the call.

The roll was called on the ayes and nays, with the following result:

Ayes: Allen, Chaney, Harris, Lewis, McConnell, Underwood, Wilson, Mr. President—8.

Nays: Ainslie, Armstrong, Anderson, Ballentine, Bevan, Brigham, Campbell, Clark, Coston, Crutcher, Glidden, Gray, Hampton, Harkness, Hasbrouck, Hays, Heyburn, Hogan, Jewell, King, Lamoreaux, Lemp, Maxey, Mayhew, McMahan, Melder, Myer, Moss, Pierce, Pinkham, Poe, Reid, Robbins, Sinnott, Shoup, Sweet, Vineyard, Whitton—38.

And the amendment was lost.

Mr. SHOUP. I desire to withdraw my amendment, inasmuch as the amendment offered by the gentleman did not prevail.

There being no objections the amendment was withdrawn.

Mr. CLAGGETT. I offer an amendment at the end of the section: Provided, that whenever any member of the legislature shall travel on a free pass in coming to or returning from a session of the legislature, the number of miles actually traveled on such pass shall be deducted from the mileage of such member. (Seconded.)

Mr. MAYHEW. Now, Mr. Chairman, I will favor that

amendment if the gentleman can inform me how you are going to find out how many get passes.

Mr. CLAGGETT. The legislature can pass a law, and will pass a law requiring the member to swear to the number of miles he actually traveled without a pass.

Mr. MAYHEW. If the legislature is going to pass that kind of a law I am in favor of it.

Mr. SHOUP. If a member travels on foot his mileage should be doubled.

Mr. GRAY. Mr. President, I have worked for companies, and in consideration thereof I have a pass, and then I have pay besides perhaps, but that is a consideration with me in getting a pass. Now, if I am to be shut out from them, I can't see what reason there is in it. I have worked for the corporations and common carriers perhaps during my life a great deal, and I am still in the employ of some, and I don't see what reason there is that when that is a portion of the consideration for my services, that I must then give it over to some man who, because he did not happen to get my place, is mad about it and wants to shut me out.

Mr. CLAGGETT. I will say frankly right here that I figured this matter up, and I offered this amendment for the express purpose of smashing this whole system of passes to members of the legislature. It gives the member the right to make his choice, either to take his ten cents a mile, which is more than the railroad travel costs, and travel on the railroads, or take his pass and lose money by it. That is just what it comes to. Besides, I claim this idea, that when your legislature allows mileage at all it is to pay the expenses of the member getting here, and if it is not costing him anything to get here, and you go to work and give him compensation out of the public treasury, it seems to me it is taking from the taxpayer that which he has a right to insist shall remain in the treasury. You pay a man a salary for services to be rendered; and if he renders no service he ought not be entitled to any pay.

Mr. GRAY. May I ask the gentleman a question? Suppose he walks, then he should not have anything, should he?

Mr. KING. Mr. Chairman, the legislature ought to be like Caesar's wife, free from suspicion. Now, I ask you if a man can be free from suspicion, that has got \$50 or \$100 worth of railroad money in his pocket, if any railroad legislation comes up? There are many members that will come to this legislature that we are providing for whose fare will amount to from \$50 to \$75. A free pass to this man says what? I have got \$50 or \$75 of money in my pocket belonging to this railroad company. There is legislation coming up, and it is not in human nature to resist the influence that that \$50 or \$75 he has in his pocket will exert; I believe that is a good consideration. We have fixed the mileage sufficiently to far more than pay his expenses in coming here. Then why should they get double pay?

Mr. POE. It is said every man has his price. \$50 may be the price of Brother King, but I doubt whether it would reach the average legislator. Mr. President, I don't think there is any reason in this proposition. I don't think there is a solitary member who ever came to this legislature that accepted a pass as a bribe that he should act as the agent or attorney of that railroad. And I don't think by reason of his accepting it that he thereby places suspicion upon himself or obligates himself to support any measure that would enure to the benefit of that railroad company. I take it this way, that if any incorporated company or any individual in their magnanimity or their generosity shall offer to give to a person a pass, who is going to the legislature to assist in making laws for the country, or see proper to assist him in getting there to perform that duty, I conceive it to be nobody's business, and it does not place him in a position which subjects him to legislative criticism for having accepted either pass or remuneration.

("Question, question.")

The question was put by the chair upon the amend-

ment proposed by the gentleman from Custer. Vote was taken and the amendment lost.

The CHAIR. The question now recurs upon the amendment offered by the gentleman from Shoshone.

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

Mr. McCONNELL. I second it.

The CHAIR. The question is upon the adoption of this amendment and the secretary will call the roll.

Roll call:

Ayes: Ainslie, Anderson, Allen, Campbell, Coston, Clark, Crutcher, Hampton, Harkness, Harris, Hasbrouck, Hays, Jewell, King, Lewis, Mayhew, McConnell, Myer, Moss, Reid, Standrod, Underwood, Vineyard, Wilson, Mr. President—25.

Nays: Armstrong, Ballentine, Bevan, Blake, Chaney, Glidden, Gray, Heyburn, Hogan, Lamoreaux, Lemp, Maxey, Melder, Morgan, Pierce, Pinkham, Poe, Pyeatt, Shoup, Sweet, Whitton—23.

(Ayes 25, nays 23, and the amendment was adopted.)

The CHAIR. The question now recurs upon the adoption of the section as amended.

The question was put by the chair. Vote and carried.

SECTION STRICKEN OUT.

Section 24 was read.

Mr. AINSLIE. I move to strike that section out.

The motion was seconded, and the question put by the chair. Vote and carried.

SECTION. 25.

Section 25 was read.

Mr. HEYBURN. I move to amend by inserting after the words "judge of the supreme court" the words "or presiding officer of either house." The amendment was seconded.

Mr. MAYHEW. I suppose the idea of that is to authorize the presiding officer to administer the oath to any members that are not there at the time of the organization of the body.

Mr. HEYBURN. So that he may be able to, yes.

Mr. MAYHEW. I favor it then.

The question was put by the chair. Vote and carried, and the amendment was adopted.

The question was then put upon the adoption of Section 25 as amended. Vote and carried.

PROPOSED SECTION 26 — STRICKEN OUT.¹

Section 26 was read.

Mr. ALLEN. I have an amendment to offer.

SECRETARY reads: I move to amend Section 26 by inserting after the word "contract" in line 4 the words "for a term of two years," and move to strike out the words "other things being equal" in lines 5 and 6.

The amendment was seconded.

Mr. ALLEN. I just want to say one word in explanation. A number of publishers of this territory have thought it would be at least fair that this should be so amended, and I understand that the chairman of the committee is willing to accept it at their request.

Mr. MORGAN. I have no objection to the first amendment, Mr. President. I prefer to let the convention vote upon the other.

SECRETARY reads the proposed amendment again.

Mr. POE. Do I understand the gentleman, by the term of two years, that this shall only be paid "for the term of two years"?

Mr. ALLEN. The contract shall be let for the term of two years. That is the term for which the legislature is elected, and it is for the printing ordered by the legislature.

Mr. POE. The contract should each time be let for the term of two years. Now, he moves to strike out the last part, and leave those words "other things being equal, preference shall be given to a resident of the state." Now, I cannot conceive why the gentleman, being a resident of this state, should desire that clause stricken out.

¹—See p. 1266 for language of this section as proposed.

The CHAIR. It is the words "other things being equal."

Mr. POE. That is it; but would you not conceive or suppose by the meaning of those words that a contract for the printing was to be let and that bids were due to be received? Parties from different states or places outside of this territory might wish to make a bid to do that printing, and parties in this territory might wish to make bids. Now perhaps parties in this territory would make the same bid for doing the same work that parties outside would make. Everything being equal; that is, the bids being equal by the outside parties with the bids of parties living within the state, then, as I understand it, this section intends to give the preference to the printer who is a resident of the state. If that was the intention of the committee when they engrafted those lines in that section, I think it was the part of wisdom, and it is the part of justice. First, we should award to our own people any benefits we can give them in preference to a stranger, as long as they are willing to do the work for the same price as the stranger. That is a thing we are attempting to guard against, which has been a curse to the printing fraternity of this territory in the past. Often there have been large contracts for doing the territorial printing, and the contract would be let to some man in New York, Philadelphia or Cincinnati in preference to men who are living in our midst. All this is intended to do is to protect the printer that lives and is identified with us in this state, and if he can do the work as cheaply as those on the outside, then I want the law to say that he shall have the preference.

Mr. ALLEN. Mr. Chairman, I will try and state the position fairly as I understand it. And I desire to go on record on this proposition, and I shall ask that the other members also put themselves on record. It is well known that the expense of printing, of labor, fuel, freight on material, and everything connected with it, are at least 33 per cent higher than they are in the east; at least that much in many respects, and it is 100 per

cent in those matters I refer to; that the publishers in this territory have to pay more than those who contract for this work in New York, Washington, Omaha or St. Louis. The conditions here are different, and in behalf of those who are publishing and printing in this territory I offer this amendment.

And I will explain further, that the work which we have had, the Revised Statutes which were printed three years ago, were let to the lowest bidder. The result was that I think there were three hundred errors, it may have been thirteen hundred, but certainly over three hundred errors in that work, of such a nature that it almost invalidated the entire value of the statutes. This work, I say, should be done within the state. In Montana and in other new states it is made obligatory that the work shall be done within the limits of the state. It is for the purpose of building up facilities within the state of Idaho that we offer this amendment, that it shall give the preference, and if there is any gentleman in this convention that can explain what the result will be or what the meaning is, or what the power or intention is of "other things being equal" then I will be willing to give up. If there is a gentleman that can make that explanation I would like to hear it.

Mr. VINEYARD. I favor the amendment, particularly the latter portion, offered by the gentleman from Logan. Those words "being equal" being stricken out, it has the very effect which the gentleman from north Idaho desires. If you retain the words "being equal" it gives the legislature a chance to quibble and perchance might award this business to an outsider. But these contracts are let to the lowest responsible bidder. It leaves it beyond question, takes it beyond the power of the legislature, which I have been contending for in a number of things. It makes it absolutely obligatory upon the legislature to award these printing contracts to the lowest responsible bidder, the preference being given to residents of the state.

Mr. GRAY. All I want to say is this: I think those

words are proper there. There has been a great deal of printing done here that was not fit to be seen in any place. I want those words there, that they shall do as good work, is my understanding of them. I understand that to be what those words are put in for. Not that they should not want to give it to a man residing in the territory if he does equal work for the same price; but if he is to print it on brown paper or do it in a bungling manner, as a matter of course, we don't want that. We want he should do equally as good as is done outside. He may be lower in price, but if he does it lower and may be responsible, all right; but we want it done well. That is all there is to it.

Mr. POE. Just one moment. When I made the remarks I did I was laboring under the impression that all was struck out after the word "contract": "other things being equal, that preference should be given to residents of the state." I was not aware when I made my remarks, that only the words "other things being equal" were to be struck out leaving the words "preference being given to residents of the state," in there, or else I should not have made the remarks I did.

Mr. McCONNELL. I don't fairly understand this, Mr. President. If it is the intention of the gentleman who offers this amendment, which from his language I presume it is, to give the contracts under any circumstances to the printer in this territory, I would like to know it. He is willing to give him, according to his remarks, thirty-three and a third per cent more sooner than to give it to somebody else.

Mr. ALLEN. No, I did not say so, and no gentleman could have misunderstood me.

Mr. McCONNELL. Well, I may not be a gentleman then, because I misunderstood you, is that the inference?

Mr. ALLEN. No sir, no sir, not at all.

Mr. McCONNELL. That was the language; by referring to the reporters' notes I can have it read, that it would cost thirty-three and a third per cent more to do the printing here than in the east, and that the print-

ing has been done in the east in a very bungling and incorrect manner, and consequently the supposition was that it was better for us to allow thirty-three and a third per cent additional than to send it outside the territory. Now, that would be the result if the clause was struck out. I am in favor of a two-year contract; I am in favor of giving the printer who has a contract here an opportunity to fix his office so that he can go on and know that he has two years' work. I think that is all right, and I say, that the people of this territory shall have the preference without putting in any provision. I don't believe in it, because—

Mr. ALLEN. If the gentleman will allow me—

Mr. McCONNELL. Certainly.

Mr. ALLEN. As I understand, there is no explanation necessary except to read the exact language in that section, when it is amended, and I will read it: "The legislature shall provide by law that the printing shall be let by contract for a term of two years (which I think the law considers is proper) to the lowest responsible bidder, and in awarding such contract the preference shall be given to printers of this state." Now, it is entirely in their hands. They would certainly not try to cheat the state; they are not expected to, and I do not think it is a fair inference for anyone to suggest such a possibility.

Mr. McCONNELL. I think it is a fair inference that merchants, railroads or any other class of people will get the better of the people of this state if they can. That is an inference that is very clear to me. There are how many printing offices in this territory that have a plant to do the state printing? The way it is, they enter into a combination or make an agreement, "You tickle me and I will tickle you and we will get as many thousand dollars as we can." I can't see any reason why that should be stricken out. If everything is all fair, let it be there; what is the use of striking it out. I move, Mr. President, that Section 26 be stricken out.

Mr. CLAGGETT. I second the motion, and I think

the motion should prevail. The idea of undertaking to put in the organic law of the state a provision regulating how the journals of the house of representatives and the senate shall be printed, and whether preference shall be given to residents or nonresidents of the state, and taking the whole thing out of the hands of the legislature, it seems to me is going too far.

Mr. ALLEN. I perfectly agree with the gentlemen, but if it should be insisted upon, as has been by this committee, I insist that every man shall go on record on that proposition; but this has no place here.

Mr. CLAGGETT. I very much regret that the printers interested in this matter have not prepared this section with greater care. The last sentence says the preference shall be given to residents of the state. Ninetenths of all contracts heretofore awarded, have been awarded to residents of this territory.

Mr. ALLEN. I will say to the gentleman that I have an amendment covering that, but thought it was not necessary to present it.

Mr. CLARK. And those residents, after receiving the contract, sent it off. It was given to the proprietor of the Statesman (not the present one), and he sent the work entirely out of the territory; so that if the section is adopted in any form it should be very essentially changed. It is extremely desirable that the work of printing should be done within this territory. I am not the owner of a printing press, I never expect to own one, but I have owned a great many. The value of having the work done in this territory and done well is for the purpose of securing accuracy. All of the printing which has been done for this territory has been very badly done, no matter how well it might appear upon the face of it, how clean or how well printed or how well the typographical work appears. It has been full of errors for the reason that the proofs could not be read in this territory by persons familiar with the matter. The late revision is full of errors, for the simple reason that it was a compilation of laws already on the statute

books, and the revisors took the printed copy, carefully collated them, and marked such sections of the printed copies as they wanted, so that the accumulations of fifteen years of errors were faithfully transmitted to the legislature for re adoption; and the copyists faithfully copied every error, the errors went to the printers and the printers faithfully copied them, and they all came back here in the proof sheets to be read by the Honorable R. Z. Johnson after they were beyond redemption and could not be corrected. The whole system is bad. There ought to be a section here providing, as is provided in three-fourths of the states and ought to be in all the states, for a public printer. The work ought to be done at prices at which a man can do his work and do it well. The public printer ought to be a resident of this state, and given a contract for a sufficient time so that he can be prepared to do the work in the interests of the state. Just as well might we let out the work of the secretary of state or of the treasurer to a resident of Nebraska as to let out the printing of the state, if we are not considering the interests of the state. I think therefore the whole paragraph should be rewritten in order that the interests of the state may be subserved in the matter of printing.

Mr. GRAY. I will say to the gentleman from Ada who has just spoken that if the trouble was with the revisers of these statutes, what is the matter with the number of pages of errata there is in it? There was never a poorer job done in the territory than that one which was managed by the gentleman from Ada. It was well written and it was correct, too, and here you may turn to the first page of your errata and see whether it was our fault.

Mr. CLARK. I hope the gentleman will allow me to say there was not a single word in what I said that could be construed as a reflection upon the revisers, not one single word. These gentlemen did their work faithfully, and after the revision passed from their hands into the hands of the clerk, the gentleman will not contend that

with his hand he wrote out the sections of that revision. He will admit that he had the printed work and used it just so far as he conveniently and reasonably could, and that such sections as needed rewriting were rewritten; but a very large part, if not a majority of the work, was handed to the clerk for copying as printed matter, and he copied those errors most faithfully.

Mr. GRAY. Who was it attended to it? What clerk was it handed to?

Mr. CLARK. Mr. Henry Johnson was the first transcriber.

Mr. GRAY. It was all corrected before it went to his hands, and then recopied under the supervision of Mr. Heuschkel.

Mr. CLARK. I beg the gentleman's pardon. The work was never copied to go from this state to the territorial printer. I read that manuscript first myself and was the first to discover the errors in the manuscript. I was the first to call the attention of the committee of the legislature to the fact that the errors were there.

Mr. MORGAN. I rise to a point of order. This discussion is out of order. The question is on the striking out of the section.

The CHAIR. The point of order is well taken. The question is upon the motion of the gentleman from Shoshone to strike out Section 26.

("Question, question.")

The question was put by the chair. Vote and carried, and Section 26 was stricken out.

The CHAIR. The question now recurs upon the adoption of the article on Legislative Department as it has been read and adopted by sections.

("Question, question.")

SECTION 12.

Mr. PINKHAM. Before that vote is taken I wish to enter a motion to reconsider the vote by which Section 12 was passed this forenoon. (Seconded.)

Mr. MAYHEW. I would ask for an explanation.

Mr. PINKHAM. In the absence of Mr. McMahon from this convention, perhaps the gentleman from Shoshone will be substituted for him. I would like to have this section explained to me. I have read it carefully over and over again as it has been amended in this convention, and I can neither make reason, head, tails nor rhyme out of it.

Mr. MAYHEW. I did not ask the gentleman to comment upon the grammar of it; I asked him simply to state the reasons why he wanted it to be reconsidered, in order that I might support his motion.

The CHAIR. The gentleman's explanation is proceeding by consent. Under the rule no discussion can be had on this motion.

Mr. PINKHAM. I ask that this convention reconsider the motion by which it was passed. I will read the section as it now stands. "The doors of each house and of the committee of the Whole shall be kept open"—kept open when? Kept open during the day or during the night or on Sundays or for what purpose? I can find no sense in it at all. When you come to sift it down it does not apply to the council or the senate of that august body at all; there isn't a word in relation to it at all. It says "in the committee of the Whole and of the house." For that reason I don't see any object in having the section there at all, and for that purpose I will enter a motion to strike it out entirely.

The CHAIR. The chair will rule that that is out of order. The question is first upon the motion to reconsider.

The vote was taken viva voce and a division called for. On the rising vote the result was 23 ayes, 12 nays.

The CHAIR. The motion to reconsider prevails and Section 12 is now before the convention.

Mr. PINKHAM. I make a motion to strike out Section 12. (Seconded.)

Mr. AINSLIE. I move to amend. After the word "open" in the following line, "the doors of each house and of committee of the Whole shall be kept open," add

the following, "and the business of each house shall be openly and publicly transacted."

Mr. GRAY. Is not the motion to strike out, the first motion?

The CHAIR. Yes.

Mr. SHOUP. Was there not an amendment to that section adopted this morning?

Mr. STANDROD. I understood the following words were also adopted, "at all hours when the legislature is in session."

The CHAIR. That was Mr. Parker's amendment and it was voted down, and your amendment adopted. While the gentleman is preparing his amendment the question is on the motion to strike out the section.

The question was put and a viva voce vote taken. The chair was in doubt. On the rising vote the result was 20 ayes, 18 nays, and the section is struck out.

Mr. ALLEN. I move to adopt the article as amended.

Mr. MAYHEW. Well, I understand the gentleman wanted to offer a substitute to that section, and it is not entertained.

The CHAIR. We are now waiting for him to prepare it.

Mr. AINSLIE. I offer a substitute for Section 12. (Reads) "Section 12. The business of each house and of the committee of the Whole shall be transacted openly and not in secret sessions."

Moved and seconded that the substitute be adopted. Vote and carried.

Mr. MORGAN. I now move the adoption of the article. (Vote and carried, and the article on Legislative Department was adopted.)

The CHAIR. The question now is upon ordering the article as read for engrossment and setting a time for final reading.

Mr. MORGAN. That is the motion I was preparing to make. I move the time be Monday at two o'clock.

The motion was seconded. Vote and carried.

RESOLUTIONS IN RE STATE ELECTION.

Mr. AINSLIE. Mr. President, I ask leave to offer a resolution. I thought there would be no further business, and under the rule it will lie over until Monday.

SECRETARY reads:

Resolved, That it is the sense of this convention that no election for any of the officers provided in the constitution of the state of Idaho shall be held until the said constitution is approved by congress, and under the provisions of an act of congress.

Second: Resolved, That no United States senators in the state of Idaho be elected until the convening of the first legislature under the provisions of the constitution adopted by this convention.

Third: Resolved, That the judiciary committee be, and is hereby instructed to report a section in accordance with the foregoing resolutions to be incorporated in the constitution. Ainslie."

The CHAIR. Under the rule the resolution will lie over one day. What is the further pleasure of the convention?

REVISION COMMITTEE—CHANGE OF MEMBERS.

Mr. SHOUP. The chairman of the committee on Revision, Mr. Beatty, is absent. The next member is W. W. Hammell, who is absent. The next member, Mr. Morgan, is going away tonight. I am the next member, and consequently bills that are already engrossed have been sent to me. Now, Mr. Hammell will not be back at all, as I understand, and I therefore move that the gentleman from Latah, Mr. Sweet, be placed on this committee in lieu of Mr. Hammell. (Seconded. Vote and carried).

Mr. CLARK. Mr. Chairman, I move that the presiding officer fill up the vacancies caused by the absence of the democratic members of that committee.

The CHAIR. Suggest the president of the convention.

Mr. CLARK. All right. (Seconded).

The CHAIR. It is moved and seconded that the president of the convention fill up the other vacancies on that committee who are permanently absent.

Voted and carried.

Mr. GRAY. Mr. President, there are so many going away that I would ask that the resolution of the gentleman from Boise may lie over until Tuesday morning, or until Wednesday morning. Would that be objectionable?

Mr. AINSLIE. If it comes up Monday morning I suppose by agreement it could lie over.

Mr. GRAY. Why can't we put it over now, there are so many away.

Mr. AINSLIE. Well, I would have to consult some of my friends. You can take it up now so far as I am concerned.

Mr. GRAY. I move that it go over until Wednesday morning. (Seconded).

Mr. GRAY. The idea is this: Those are away now who want to take some part in it and will not be here Monday morning.

Mr. MAYHEW. It can be passed over.

Mr. GRAY. But it would have to be done by a vote. I cannot see why it cannot be as well passed now.

Mr. AINSLIE. I will state to the gentleman that I am in no particular hurry about the resolution, and I have no doubt it can be postponed until Wednesday or Thursday or Tuesday.

Mr. GRAY. Can't it be so ordered now?

Mr. McCONNELL. I move that the resolution be made a special order for Wednesday morning at ten o'clock.

Mr. GRAY. I second the motion.

The CHAIR. The chair will say that it has been stated and referred under the rules, and there would have to be a motion to suspend the rules.

Mr. GRAY. I move to suspend the rules for the purpose of making it a special order for Wednesday.

The CHAIR. The gentleman from Ada moves that

the resolution that has been reported by Mr. Ainslie be now taken up and made a special order for Wednesday at ten o'clock. This will require a two-thirds vote. (*A viva voce* vote was taken). The chair is in doubt. As many as are in favor of the motion rise——

Mr. SWEET. I don't understand the motion.

The CHAIR. The resolutions offered by Mr. Ainslie should under the rule lie over until Monday. The motion is that they be now taken up and made a special order for Wednesday at ten o'clock. It is moved that the rules be suspended and that order be made. It will require a two-thirds vote to suspend the rule.

A rising vote was taken, resulting ayes 20, nays 17, and the motion is lost.

Mr. WILSON. I move that the resolution be made a special order for Wednesday morning.

The CHAIR. That is the motion just made, and which was lost.

Mr. WILSON. The motion just made was that this resolution be taken up now, and be made a special order for Wednesday.

The CHAIR. The motion was to suspend the rules and take up the resolution and make it a special order for Wednesday at ten o'clock.

Mr. WILSON. As I understand the rule, it must go over one day, and if they take it up inside of one day, they must suspend the rule.

Mr. AINSLIE. There is time enough for the gentleman to make that motion on Monday morning. This motion has just been defeated, by lack of the necessary two-thirds.

The CHAIR. When a resolution of that sort is introduced, it lies over one day under the rule, and before any question can be had to take any action on it whatever, the rule must be suspended. The gentleman made a motion to suspend the rule to take such action, and that has been voted down.

Mr. CLAGGETT. Except by leave of the party offering the resolution. In other words, he has a right to insist that it shall lie over one day.

The CHAIR. Yes.

Mr. SHOUP. As I understand the rule, the gentleman offering the resolution must first give notice that he desires to speak upon it before it can be laid over. If he does not desire to discuss it, it must be taken up right away.

The CHAIR. The chair construes the rule that he gives notice that he will discuss it. The gentleman instead of giving notice that he would offer a motion on a certain subject, has offered the motion itself, which lies over under the rule. The gentleman has asked his consent to put it over, and that is declined, and then the house took a vote upon it and refused to suspend the rule to set a time.

Mr. MAYHEW. I move we adjourn until Monday morning at 9 o'clock.

The motion was seconded and a rising vote taken, which resulted, ayes 21, nays 13, and the motion to adjourn was carried.

Mr. CLAGGETT. One moment, Mr. Chairman, before the adjournment is announced, I want to give notice of the appointment of a committee, which was ordered to be made.

Gentlemen of the convention, a resolution was offered yesterday for an appointment of a special committee on revising the minutes and proceedings of this convention. I apprehend that committee will remain in session two or three weeks after the adjournment of the convention, and it is necessary that such gentlemen be put upon it as live in this town, or as close as possible, and I therefore appoint on that committee, Mr. Wilson, Mr. Moss and Mr. Clark of Ada.

Mr. HEYBURN. Mr. President, I move you that the secretary of the territory be made a member of that committee.

The motion was seconded.

Mr. AINSLIE. I don't know whether the convention can make him a member, but they can respectfully invite him to co-operate with it.

Mr. WILSON. He signified his willingness to accept. Vote and carried.

Adjourned until Monday morning, July 29, 1889, 9 o'clock.

TWENTY-FIRST DAY.

MONDAY, *July 29, 1889, 9:00 A. M.*

Convention called to order by the President.

Prayer by Chaplain Smith.

Roll call:

Present: Ainslie, Allen, Anderson, Armstrong, Ballentine, Bevan, Blake, Brigham, Campbell, Chaney, Clark, Coston, Crutcher, Gray, Glidden, Hampton, Harris, Hasbrouck, Hays, Heyburn, Hogan, Jewell, King, Kinport, Lamoreaux, Lewis, Maxey, Mayhew, McConnell, Melder, Myer, Moss, Parker, Pefley, Pierce, Pinkham, Poe, Pyeatt, Reid, Sinnott, Shoup, Steunenbergh, Sweet, Underwood, Vineyard, Wilson, Whitton, Mr. President.

Absent: Andrews, Batten, Beane, Beatty, Cavanah, Crook, Hagan, Hammell, Harkness, Hendryx, Howe, Lemp, McMahan, Morgan, Pritchard, Robbins, Salisbury, Savidge, Standrod, Stull, Taylor, Woods.

Journal read and approved.

Presentation of Petitions and Memorials: None.

Reports of Standing Committees: None.

Reports of Select Committees: None.

COMMITTEE CHANGES.

Mr. POE. I ask that Mr. Reid be placed on the committee on Apportionment in my place, and also on the committee on Schedule, in place of Mr. Howe.

The CHAIR. If there is no objection he will be placed on the committee on Schedule in place of Mr. Howe.

Mr. HEYBURN. It seems to me in making up the committees the same balance of political power should