

TWENTY-SEVENTH DAY.

MONDAY, *August 5th, 1889, 9:00 o'Clock A. M.*

Convention called to order by the President.

Prayer by Chaplain Smith.

Roll call:

Present: Ainslie, Allen, Anderson, Armstrong, Ballentine, Batten, Beane, Beatty, Bevan, Blake, Campbell, Cavanah, Chaney, Clark, Coston, Crutcher, Glidden, Gray, Hammell, Hampton, Harkness, Harris, Hasbrouck, Hays, Heyburn, Hogan, Howe, Jewell, King, Kinport, Lamoreaux, Lemp, Lewis, Maxey, Mayhew, McConnell, McMahan, Melder, Myer, Morgan, Moss, Parker, Pefley, Pierce, Pinkham, Pyeatt, Reid, Robbins, Savidge, Sinnott, Shoup, Standrod, Steunenber, Stull, Sweet, Taylor, Underwood, Vineyard, Whitton, Wilson, Mr. President.

Absent: Andrews, Brigham, Crook, Hagan, Hendryx, Poe, Pritchard, Salisbury, Woods.

Journal read and approved.

Reports of standing committees:

Mr. HASBROUCK. The committee on Engrossment desires to report.

ARTICLE XVIII., COUNTY ORGANIZATION, FINAL PASSAGE.

SECRETARY reads: Mr. President, your committee on Engrossment have the honor to report that they have carefully examined the article on Names, Boundaries and County Organization, and find the same correctly engrossed.

The CHAIR. The question is now upon the final passage of the article reported by the committee on Names, Boundaries and County Organization. The secretary will read the same.

The roll was called by the secretary and the vote upon the adoption of the article was recorded.

Mr. BEATTY. Mr. President, I shall vote against that bill, and I state my reasons briefly for it. In the first place, Section 3 as it there stands, as I consider it, ties up the county boundary lines of this territory for all time to come. In the next place, the section which provides for the payment of officers by fees is a return to the old system, which, for one, I have always objected

to, and which I think we will get tired of before we try it many years. I am in favor of the present system, although it needs some modification; and for those reasons I vote against the bill. I vote No.

Mr. SHOUP. The gentleman sitting immediately back of me says that one amendment has been left out as read this morning.

The CHAIR. Will the gentleman please state what it is?

Mr. HARKNESS. Not allowing assessor to serve two terms.

The CHAIR. That is incorporated.

Roll call:

Yeas: Ainslie, Anderson, Armstrong, Batten, Beane, Bevan, Blake, Campbell, Cavanah, Chaney, Coston, Crutcher, Gray, Hammell, Hampton, Harkness, Harris, Hasbrouck, Hays, Heyburn, Hogan, Howe, Jewell, King, Kinport, Lamoreaux, Lewis, Maxey, Mayhew, Melder, Myer, Morgan, Moss, Pefley, Pierce, Pinkham, Pyeatt, Reid, Robbins, Savidge, Sinnott, Shoup, Standrod, Steunenberg, Stull, Taylor, Underwood, Wilson, Mr. President—49.

Nays: Beatty, Vineyard, Whitton—3.

The CHAIR. The article is adopted and referred to the committee on Revision and Enrollment for incorporation into the constitution.

ARTICLE XIX.— APPORTIONMENT.

The CHAIR. Gentlemen of the convention, the next business is the consideration in the convention or in committee of the Whole, of the report of the committee on Apportionment.

Mr. SHOUP. I move that the house resolve itself into committee of the Whole for consideration of the report on Legislative Apportionment. (Carried).

Mr. MAYHEW in the chair.

Mr. SHOUP. I move that the committee rise and report the report back to the house without recommendation. (Seconded).

Mr. BEATTY. I move as a substitute for that that the committee proceed to the consideration of the bill. (Seconded).

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

The CHAIR. The question is now upon the motion that the committee rise and report the bill back without recommendation. It should be, to be considered in the house; I suppose that is the intention.

Mr. SHOUP. Yes.

The motion was put by the chair. Carried.

Mr. CLAGGETT in the chair.

Mr. MAYHEW. Mr. President, as chairman of the committee of the Whole I am directed to report the Legislative Apportionment bill back to the house for further consideration in the convention.

The report was adopted.

The CHAIR. The secretary will read the article.

SECRETARY reads Article XIX.

Mr. MORGAN. Mr. President, I offer the following amendment.

Secretary reads: Amend as follows: After the word "Bear Lake," in line 17 insert "Oneida." Amend line 19 by striking out "Oneida" and inserting in lieu thereof "Owyhee." In line 21 strike out the words "and Owyhee," and make the word "counties" read "county."

Mr. SHOUP. Mr. President, if that is susceptible to those amendments I will accept them. If I understand this amendment it gives the county of Bingham one senator alone, and the counties of Bingham and Bear Lake and Oneida one senator, the counties of Owyhee and Cassia one senator, and the county of Owyhee one senator alone.

Mr. STULL. I second the amendment.

The CHAIR. By leave of the convention these matters will be put separately. It is moved and seconded that in line 17 after the words "Bear Lake" the word "Oneida" be inserted. Are you ready for the question?

Mr. BEATTY. Are you proposing to vote now upon the whole amendment, or only a part?

The CHAIR. Vote upon it in detail.

Rising vote; yeas 32, nays 14, and the amendment was adopted.

The CHAIR. The question recurs upon the second portion of the amendment, to amend line 19 by striking out the word "Oneida," and inserting in lieu thereof the word "Owyhee." (Vote and carried).

The CHAIR. The third clause of the amendment of the gentleman from Bingham is to strike out in line 21 the words "Owyhee and" and make the word "counties" read "county."

Mr. BEATTY. Mr. President, I have an amendment to that.

SECRETARY reads: Amend by inserting in line 21 in place of "Owyhee" the word "Alturas." (Seconded).

Mr. BEATTY. Mr. President, I do not know how the committee have arranged this report, or anything about the changes proposed in it. But I do know that in the report there are some very grave inequalities, and I will call attention to one now, which this amendment is proposed to meet to some extent. It is an amendment hastily prepared, and this report is a lengthy one and hard to gather up and comprehend in a hasty glance. It is proposed by the amendment offered by the gentleman from Bingham that we strike from line 21 the word "Owyhee" and that changed will leave Elmore county with one senator alone. Now let us see whether that is just or not. Elmore has 685 votes. It requires $889\frac{1}{2}$ votes to entitle any county to a senator. The reason I propose to attach Alturas to that is because Alturas by this report is entitled to one senator. She has 1,031 votes. She has 141 votes more than enough to entitle her to a senator, while Elmore county has about 141 less than enough to entitle her to a senator. This report, if you adopt the amendment of the gentleman from Bingham, will leave Alturas county with 141 votes for a surplus, equal only to Elmore county with about 141 votes of a minority. Now that is an unjust apportionment. Perhaps by adding the two counties together and giving them a joint senator, it might equalize it, but at any rate it is not equal as it is

here. I see some other counties here too that have only 760 votes, which by this report are entitled to one senator and two representatives—the counties of Lemhi and Custer, and quite a number of others. I do not understand how the committee ever happened to make such a report as this, but this amendment of the gentleman from Bingham is unjust. It will give Elmore county one senator with only 685 votes. It leaves Alturas with 1,031 votes upon the same footing with Elmore county. In other words, Mr. President, we are getting back to the proposition early advocated here of giving each county a senator regardless of its voting population. Now, unless some good reason can be assigned for that, I am opposed to that amendment. I cannot see what it is intended for, unless it is the result of some combination or trade I know nothing about. It cannot be admitted as just; it cannot be just to give this county of Elmore, with only 685 votes, a senator, while a number of other counties—and Alturas is not the only one; for instance, Logan has 999 votes, nearly the same as Alturas, and gets but a senator—you are putting small counties upon an equal footing with the large counties. And unless the gentleman can assign some good reason why it should be done, I am opposed to it and I think the amendment I offer is better than the one he has proposed.

Mr. SHOUP. The gentleman from Alturas, it seems to me, is spinning a very fine thread. As regards the apportionment in those counties, we have had a custom in nearly all the states, I believe, that where a county has more than half enough to entitle it to a senator, that it shall be allowed one. Or, if it is more than half enough more to entitle it to one senator, that it is entitled to two. As regards the county of Alturas, it has over 200 votes more than enough for one senator. Now, these hundred votes have to be given to another county; that is, a hundred votes short of being entitled to a senator, but it does not belong to Alturas. If Alturas county had more than half enough more than

for one senator, then there would be some reason why it should be attached to that county. But I don't think it would be good policy for the counties of Elmore and Alturas to be in a senatorial district, even if they had the requisite number of votes. I think those two counties better be kept separate on any political question, for the good of the inhabitants.

Mr. STULL. Mr. President, there is an additional reason to the very good reasons which the gentleman from Custer has given. In the division of Alturas county, precincts were divided along the line of Camas Prairie. The returns which show here that Elmore casts 685 votes are not just to that county. They are the votes that were given by precincts which were held intact; whereas, the present territory comprised in the county of Elmore cast a considerable number of votes that are not included and are not shown in these statistics. Elmore county today has a considerable number more than 685 votes. She has more votes today than old Alturas has, and this provision we make here is only a provision that is proposed to remain until another arrangement shall be provided by law. Let the legislature come together, and if they find Elmore is not entitled to a senator, then let the legislature correct the evil and put the balance where it belongs. That is all we ask. But we say that these statistics are not right; the geography of the country shows that they are not right; but there are formations of precincts which belong now to Elmore county which contain a considerable population, and which are not reckoned in this 685 votes. Elmore is entitled to a senator, and she ought to have it, and above all, do not place Elmore and Alturas in the same senatorial district. That would not be conducive to the harmony for which our chaplain has so eloquently prayed.

Mr. MORGAN. Mr. Beatty has asked me if this is the result of a trade. I am a little surprised at the glibness with which the gentleman makes charges or insinuations of this kind, and I want to say that I am

not in the habit of making trades with anybody on these matters. I want to say further that I have no interest in this matter whatever. The reason this change was made with reference to Elmore county was to make a place for Owyhee county. Some of the representatives in the lower part of the territory were very much opposed, among others the gentleman from Owyhee to being put with Elmore county. They wanted to go with Cassia, and the gentleman from Bingham county was not satisfied with the matter, and Oneida county was not satisfied with the apportionment. In order to satisfy those counties below, I concluded to offer this amendment and put Owyhee and Cassia together, and Bingham, Oneida and Bear Lake. Then we must, of course, give Elmore a senator, and that is the reason it was done. I have no interest in Elmore at all, and I have no interest against Alturas county.

Mr. ANDERSON. May I ask you a question, Judge Morgan?

Mr. MORGAN. Yes.

Mr. ANDERSON. Why is it you have reduced Bingham, with its 1447 legitimate votes and something, over disfranchised votes, to one and one-third, while Elmore with 600 odd votes is given a senator alone? It was stated that without giving representation for persons who could not vote, as a matter of fact there were only 150 legal votes in Bear Lake county, and we have in Bingham county, the gentleman will notice by reading the bill through, given it a large share in the house of representatives. She makes up perhaps a larger share than she is entitled to in the house of representatives, which makes up for her loss in the senate.

Mr. KINPORT. I simply wish to ask the gentleman from Custer, who made the statement that it was the general practice, where the number of votes in the county ran over one-half of the number sufficient to entitle them to a senator, that they usually gave them a senator. And also where the number of votes

ran over the number required for a senator and a half, that they gave them two senators. I simply wish to ask him why this principle was not applied to Bingham county in this convention?

Mr. SHOUP. I would say in answer to that question, that this amendment is no amendment of mine; that is, in the report of the committee. That is an agreement, as I understand it between those counties themselves. They were allowed four senators among them, and they were going to divide it up as suits themselves.

Mr. KINPORT. I don't think that is as stated, notwithstanding one of the statements made by the members from that county. In the first report framed by this committee Bingham county was allowed a senator and a half. According to this last apportionment we get but one and one-third. And we have, according to this last apportionment a surplus of 226 votes; this is in addition to the fact that we have already been cut down fully one-half of our representation. I think it is altogether unjust to Bingham County.

Mr. BEATTY. I do not propose to spin any thread, fine or coarse; I am not a spider. I generally do what I do openly, and never in the dark as spiders do. My friend from Elmore calls attention to the fact that the report of the committee here as to the number of votes cast for those different counties is not correct. I understood him to assert that the county of Elmore had as many or more votes than the county of Alturas. If the gentleman so stated, he is certainly mistaken. I have understood all the time that this report here is substantially correct. It is true these new county lines did not go according to precincts, but ran through them; it ran straight; in other words, regardless of what it cut or struck, whether a mountain or a precinct or a house or a mill or anything else. But I have been informed before coming here, and since I have been here, that this report is as nearly correct as can be arrived at, without an actual count of the inhabitants them-

selves. So that I think my friend from Elmore is mistaken. I understand and I believe that this report is substantially correct within a few votes; and I do not know which way it would vary if an actual count was taken. Now, if it be correct let us see where we stand. Elmore has 685 votes; 889 votes entitle them to a senator; that gives them a deficiency of 204 votes. Alturas county has 141 votes more than enough to entitle her to a senator. That 141 votes added to 685 votes which Elmore has, would make 826 votes, just about enough to entitle them to a senator. Now, Mr. President, my object in making this motion was not that I expect to cheat Elmore county out of a senator. I expect Elmore county under this arrangement would have a right to a senator, but Alturas county would have a right to vote upon it. I propose it because I think it is fair. In other words, it will not be throwing away our surplus votes, but will let us vote upon the second senator, and undoubtedly Alturas getting one, Elmore would get the other. It was not because I was anxious to be attached to Elmore county, but I think it is all bosh about our not being able to work together. A portion of our citizens are daily dealing with a portion of the citizens of Elmore county, and no doubt our relations will be such in the future that they will work together harmoniously. It was not particularly because I wanted it to be attached to Elmore, nor because I am anxious to be kept away from Elmore. I think the animosity does not exist, that it is all talk, and if there ever was any feeling between the two counties it is dying out so far as those two counties are concerned. I propose this amendment because I know of no other county adjoining Alturas to which it could be joined in a senatorial district and make it harmonious. I would be very happy to be joined with Custer county, but I do not see how it can be arranged. Custer now has a senator with only 797 votes. I should not object to having the surplus votes of Alturas put with those of Custer, if it would be agreeable to the gentleman.

Mr. SHOUP. It is not agreeable.

Mr. BEATTY. Very well; that is it. These gentlemen seem to want a senator of their own for each county, regardless of the number of votes they have. Now I submit, is that fair; is it fair that a county with only 685 votes shall have as much representation as a county with 1,031 votes? If, on the contrary, you put the two together, it makes 826 votes for this senator, and as I firmly believe, the county of Elmore will have a senator, I have no idea in the world that Alturas county will get two, but give us the right to vote for the other, and it is not throwing our extra 141 votes away. I have suggested that; I don't know anything about this amendment, did not know it was coming, but I suggest that as the first thing that appears to my mind as a fair solution of that question. It is in there and no gentleman can say that it is fair to give one county with only 826 votes as much as a county with over 1,000. It puts it equal to Logan with her 999 votes, and is unequal as regards some others.

Mr. SHOUP. Alturas county gets more representation in the house of representatives.

Mr. BEATTY. Well, I have not looked at that yet. I am only looking at this.

Mr. CAVANAH. The gentleman from Alturas says there was no animosity between the two counties. There is not, except polygamy; and I guarantee that if there was a vote taken in Elmore county today, there would not be ten votes in favor of going to Alturas county. They would prefer going to Nez Perce or Bingham county.

Mr. BEATTY. Alturas county is not asking Elmore county to come back.

Mr. CAVANAH. But you are asking us to come back politically. Now, it would not be right, because Alturas is full of politicians, and there isn't one in Elmore county. They want voters; that is all they want.

Mr. REID. Mr. President, I offer a substitute for the first 25 lines of the report.

SECRETARY reads: Until otherwise provided for

by the first legislature elected under the provisions of this constitution, the apportionment of the two houses of the legislature shall be as follows: Each county of the state shall elect one senator. (Seconded).

Mr. SHOUP. That is in opposition to the Legislative Department which has already been adopted, which provides——

ARTICLE IV., SECTION 3.

Mr. REID. I anticipated that objection, but if you turn to Section 4 of the report, and I don't suppose there will be a disposition on the part of the convention or the chair to put the gag on and force this thing through—the same power that made that section is making this Apportionment Bill, and it says the members of the first legislature shall be apportioned to the several legislative districts of the state in proportion to the number of votes polled. If we go right along and say until the first legislature meets—in convention we have a right to do that, just as we have the right to move to reconsider this section at any time, so I take it that point of order is not tenable, and if it were tenable it would come with bad grace—if this convention chooses to alter it, it can do so. And if I can get a second to the substitute——

Mr. MAYHEW. It has been seconded.

Mr. REID. I am offering this substitute against the interest of my own constituents. In this apportionment bill we have the benefit of the surplus in Nez Perce, and get to vote for two senators.

Mr. SHOUP. In whose interest are you offering it then?

Mr. REID. In the interest of Idaho, as I propose to show. I offered this in good faith when it was up before, and I say it is against the interests of those I represent—I mean my own constituency; but I came here to legislate for this entire territory. We will get half a senator with Idaho and half a one with Latah. Under this proposed substitute we get one whole sen-

ator; it is the same thing to us when we get a chance to elect two. We might get to nominate both men, and if they turned out to be elected, whether democratic or republican, would be of small importance if they were Nez Perce men, and came here to represent a county that is going to be wonderfully developed. But that is not the question; this legislative section provides, "shall be apportioned to the several legislative districts of the state according to the last vote for delegate." I maintain that that last vote for delegate does not show the true vote in the territory. I have the figures to show that in the county of Nez Perce there was 20 per cent of the voters that did not go to the polls, and the best estimate that has been made of the vote at the last election shows that there were 10 per cent of the people that stayed away. Now why should each county have one senator? It is true there will be three or four large counties that won't get as much representation. The first legislature that meets will elect the United States senator. The first legislature that meets will apportion the districts of this state and that perhaps will last for eight or ten years, and if you make such an apportionment as you have now, gerrymandering, as I believe, either in the interest of party or in the interest of aspirants. It may not be so, but I believe it, either one or the other, or both. What do you do? You do not come here and legislate for a non-partisan convention for a non-partisan purpose. I want, when the first legislature meets in this territory, if every county is republican to have a republican there, not simply to represent the party, but what? To take part in saying who shall be the first senators that shall serve us in the United States senate. I want the smallest county in this territory to have as much voice in that question as the largest one. You may say that it is not fair in proportion to population; we don't know what the voting strength is. Then what? When the legislature meets to apportion it, which perhaps will last for eight or ten years——

Mr. SHOUP. I raised a question of order, and ask that that be decided before the gentleman speaks.

The CHAIR. The chair did not hear the statement of the point of order.

Mr. SHOUP. That the motion is in conflict with the Legislative bill, or the article reported by the legislative committee.

The CHAIR. The chair has heard it stated that way before, and will rule that the point of order is well taken.

Mr. REID. Then I appeal to the convention on the point of order, and desire to give my reasons. Now, gentlemen, when the proceedings of this convention, whether we have been for one thing or another——

The CHAIR. The chair rules that it is out of order for the gentleman to argue the question before the chair——

Mr. REID. No, I am appealing to the——

The CHAIR. The chair holds that the rule of procedure is that the chair shall state the point of order. The gentleman from Custer raises the point of order that the substitute offered by the gentleman from Nez Perce is out of order. That we have adopted in the Legislative bill a proviso declaring how the senatorial districts shall be apportioned by the vote. The chair holds the point of order well taken, and the gentleman from Nez Perce appeals from the decision of the chair. the question is, shall the decision of the chair be sustained?

Mr. MAYHEW. I call for the yeas and nays. (Seconded).

Roll call:

Yeas: Allen, Armstrong, Beatty, Campbell, Glidden, Gray, Hammell, Hampton, Hasbrouck, Hays, Heyburn, Howe, Lewis, Maxey, McConnell, Melder, Morgan, Moss, Pinkham, Pyeatt, Robbins, Savidge, Shoup, Sweet, Underwood, Wilson—26.

Nays: Ainslie, Anderson, Batten, Beane, Blake, Cavanah, Chaney, Clark, Coston, Crutcher, Harris, Hogan, King, Kinport, Lamoreaux, Mayhew, Myer, Parker, Pefley, Pierce, Reid, Sinnott, Standrod, Steunenber, Stull, Taylor, Vineyard, Whitton—28.

The CHAIR. The decision of the chair is overruled, and the gentleman from Nez Perce is entitled to the floor.

Mr. HEYBURN. Mr. President, I demand a call of the house.

The CHAIR. It is too late.

Mr. HEYBURN. I would like to know under what rule it is too late. Is there anything before the house?

Mr. REID. The chair ruled that I had the floor, and I do not yield it.

The CHAIR. Mr. Reid had the floor at the time the question arose. He lost the floor only temporarily for the purpose of taking this vote, and this vote being taken, he is entitled to the floor until he concludes.

Mr. REID. As I was stating, I believe, it would be for the reason of these important questions, to come up in the first legislature, that it would be just and fair to have every county in this state have a representative in the legislature. Then what? The substitute provides that whenever the legislature meets, not that it may apportion according to the votes, but that it shall be apportioned according to the vote. Then you will not only have the vote cast for the different officers and every man brought out, but you will have a census taken by the United States to determine who are of voting age, and you will get even those who stay away from the polls; and then when the legislature meets it will have all the data necessary to make a correct apportionment of this territory according to the provisions provided in the legislative article of the constitution. I say it would be fairer; that is the reason I maintained it when we had the bill up before. The convention did vote each county should have representation; then in order that the larger counties should have additional representation you took the surplus from the eighteen counties and gave the additional representation to the large counties. That is all right, they have a larger proportion; but each county shall be represented in the legislature, and when you come to vote for United

States senator and fix this apportionment for the future, the little counties will have as big a voice, although in the lower house, and the larger counties will have a disproportion then, but I take it, gentlemen, because I think it is right and fair and proper, that these little counties should be represented. Take this apportionment now. Take the county of Latah and see how it is done. Why not give Latah two representatives and two senators, and not attach her to these other two counties? What will be the trouble when you split up half and half with each county? And who shall be elected? Not either party; the consequence will be when you get down to that quarrel, the larger counties, democrats and republicans will unite on a county alone, and the little county will be left out. I think every little county ought to have one representative in that senate that meets the first time. After that I should be opposed to it; I would have the legislature then to observe this restriction provided for in the legislative article. I hope the substitute will prevail.

Mr. McCONNELL. I have been somewhat amused at the remarks made on this question. Of course, there is no politics in this, oh no; this is purely a non-partisan measure. The gentleman suggests that these small counties should have at least one representative in the senate. And he refers to my county of Latah, which under this report is allowed only one senator. We are tacked on to two democratic counties for joint senators. The gentleman well knows the majority of those small counties; they are occupied and inhabited by miners; he knows the larger counties of this territory have double——

Mr. REID. (Interrupting): Will the gentleman allow me to ask him a question? It is based on the last vote for delegate. Didn't Nez Perce county elect a republican the last time?

Mr. McCONNELL. Yes, because they resolved themselves into a lot of mugwumps, a nondescript specimen of humanity which will be entirely extinct as

soon as we are admitted to statehood—at least I hope it will. No, my opinion is, and the opinion of my friends and colleagues will sustain me, and others, unless it is the democrats, will sustain me in that opinion, that this is purely a partisan measure. I had hoped we would get through the last few days of this session without drawing party lines; but the time has come when it is precipitated upon the republicans to stand by the report of this committee.

Mr. REID. I will ask you if that apportionment now is not in the interest of the republican vote made at the last election?

Mr. McCONNELL. If it is a question as to which side shall have it in their interest, I propose if possible to have it in the interest of the republican party.

Mr. PARKER. I am here from Idaho county, the largest county in the territory. I come from a county, sir, that is once and a half times as large as the state of Massachusetts. How big it would be if it was spread out flat, I don't know; but at any rate, I come from the largest county in the territory, and my county has the smallest representation in the state. I should like to call the attention of this convention to the fact that my neighbor county, Nez Perce, is getting two half-interests in joint senators. The third senatorial district, says this wonderful report, shall consist of the counties of Nez Perce and Idaho, and shall elect one senator. The fourth senatorial district shall consist of the counties of Nez Perce and Latah, and shall elect one senator. Now, Mr. President, why cannot those two votes be consolidated into one, and one elected from Nez Perce county? My county polled at the last election 675 votes; the only democratic county in the territory. Taxes and Idaho county are the only things that are left of the democratic party now. But it cast 675 votes in the last election. Now I see counties that only polled forty or fifty votes more than my county are given a whole senator, and my county only half a one. Only a joint interest is no senator. What

is the use of giving our people a vote, sir? Why not be disfranchised at once? What is the use of giving us a vote if we cannot have our representatives in the halls of the state legislature? Why, Mr. President, under this apportionment, two great counties can run this whole territory, or this state rather. We have seen in the legislature in this capitol building for the last four years that one county, the county of Alturas, has blocked legislation and stopped all useful legislation in order to keep that county intact. Nez Perce county is consolidated with the county of Shoshone, and it is a part of the code of ethics that the tail shall not wag the dog, but the dog surely is going to wag Nez Perce county every time there is going to be a joint senator elected. So too in Latah county, it is going to have practically three senators. It is consolidated with Kootenai in the election of a joint senator and consolidated with Nez Perce in the election of a joint senator. And the other counties are to be deprived of representation in the senate of the state of Idaho. There is no justice in it. More than that; all those great counties, Mr. President, have their resources developed, and their population, while these little counties, like mine, for instance, and Nez Perce, which are hampered with reservations, have all their resources yet to be developed. There the matter stands today; counties that need legislation for their development are practically deprived of it.

PARLIAMENTARY DEBATE.

Mr. HEYBURN. I renew my demand for a call of the house. (Seconded).

Vote, and the chair stated: "The noes seem to have it."

Mr. HEYBURN. I call the attention to Rule 18, which does not require a majority to call the house.

Mr. AINSLIE. It was decided once before upon that point, made by myself, that it requires a majority

vote, and we did not appeal from the decision of the chair on that.

Mr. SHOUP. It has been decided several times that it only requires three-fifths, and any three members have a right to demand a call of the house; but if there is objection made, it must be sustained by one-fifth. It only requires one-fifth to sustain the call.

Mr. MORGAN. Rule 18 decides it.

Mr. BEATTY. You have not yet announced the result of that, and before you do, I call for a division, although I believe Rule 18 covers it.

Mr. SHOUP. There is no question about this rule. Any three members have a 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.

Mr. AINSLIE. I stated that same objection two weeks ago on a very important matter about that suffrage bill, and the chair ruled that the majority could prevent a call of the house. We took that very ground you take now, and we were voted down on it.

Mr. SHOUP. I call the gentleman's attention to what happened five or six days ago. Mr. Mayhew moved a call of the house. Objection was made, and the vote was taken where it only required one-fifth. I think Mr. Reid was in the chair at the time.

Mr. McCONNELL. Mr. President, I do not remember what former decisions of the chair have been on that subject exactly, but I do remember that decisions in this house have been at variance at various times. I remember the first decision made by the vice-president in the chair; he afterwards admitted it was incorrect, and if the president——

Mr. REID. Does the gentleman mean to intimate that I have ruled on this question?

Mr. McCONNELL. Not on this question, but on another question. And I do think it is highly proper for any presiding officer when he makes a mistake in any particular ruling, and afterwards becomes convinced that it was a mistake, to change his decision.

I do not think there is any gentleman on this floor that will argue that a minority has no right to call the house. What is the object of a call of the house? It is to protect the minority, is it not? What other protection would they have? Suppose it should occur on any question here that the democrats should be in a minority, and they were anxious before a vote was taken on a certain subject to have their members brought in. If they were in a minority under this rule they could not have a call of the house and could not have their members brought in. It is purely a matter of fairness and this rule is established in all bodies to protect minorities, to give the minority an opportunity to get their members in.

The CHAIR. It was decided by the chair when this same question came up some time ago that on a demand for a call of the house, if objection should be made the demand should be sustained by one-fifth. That calls for a vote, as the chair understands it, upon the question as to whether there shall or shall not be a call of the house; otherwise one-fifth may hold the entire convention here all day long, or else we would be driven to this proposition that one-fifth may demand the call of the house; and then a majority may dispense with the call, and the other fifth again call for it, and the majority still dispense with a further call. And it is the opinion of the chair that it stands precisely on the same basis as it would be in the case of a call for the previous question. If the previous question is demanded, you put the question to a vote, shall the main question be now put? And the majority decides the question that it shall be put; and so if one-fifth of the members decide for a call of the house, you then put the question whether the call shall be made; and if they vote it down there is no call. That is the understanding of the chair, and if he is wrong he must be shown by some parliamentary manual where the matter has been considered. It strikes my mind that that is the plain sense of the matter.

Mr. SHOUP. Do I understand the chair to rule that where three members demand a call of the convention and objection is made, that it shall require a majority of the convention to sustain the call? Is that the ruling of the chair?

The CHAIR. That is the ruling of the chair. If objection is made, it requires that the demand for the call shall be sustained by one-fifth, and when the one-fifth is obtained, then that entitles that one-fifth to vote with regard to the question.

Mr. SHOUP. If that is the decision of the chair, of course I shall take an appeal from it, for I am positive the chair is in error.

A MEMBER. I think you had better adopt democratic tactics and filibuster until adjournment.

Mr. HEYBURN. Mr. Chairman, I would ask if it was not the constant practice in the house of representatives, for the minority of any party which finds themselves in the minority, to demand a call of the house until their members are present?

The CHAIR. If the gentleman will go and get some recognized manual to show that the chair is right or wrong, it will hold accordingly.

Mr. HEYBURN. By the time the manual could be found and the rule produced and the argument made on it, I presume there would be necessity for a call of the house.

Mr. BEATTY. Mr. President, I do not understand that the chair announced the decision on this question of division.

The CHAIR. Pending the announcement the question arose.

Mr. BEATTY. Then I call for the yeas and nays.

Mr. HEYBURN. Mr. Chairman.

Mr. MAYHEW. Are we voting whether there shall be a call of the house?

The CHAIR. We are voting on the question as to whether there shall or shall not be a call of the house.

Mr. HEYBURN. I raised the point of order, and

I would like to have a ruling upon it, that when a call of the house is made it only needs to be supported by one-fifth, and that no vote is in order until the next order, on being supported by one-fifth.

The CHAIR. The point of order has been raised, and by the gentleman of Custer, and has been decided to the contrary.

Mr. HEYBURN. I desire to appeal from the ruling of the chair.

The CHAIR. The chair decides it is too late at this time to take the appeal, for another motion has intervened, namely, a motion for roll call.

Mr. HEYBURN. I understood the gentleman from Alturas to say that no decision had been rendered upon it.

Mr. BEATTY. I will withdraw the motion for a call of the yeas and nays.

Mr. HEYBURN. I renew my appeal.

The CHAIR. The motion for the yeas and nays being withdrawn the gentleman from Shoshone appeals as to whether a call of the house can be determined by a majority or——

Mr. HEYBURN. I call for the yeas and nays.

The CHAIR. All those in favor of sustaining the decision of the chair will vote yea; those opposed will vote nay. The secretary will call the roll.

The secretary thereupon called the roll.

Mr. BEATTY. I desire to explain my vote. I shall vote no in this case, for the reason that I believe the ruling here is not what it should be, and I desire a call of the house should be had. It is not for the purpose of reflecting upon the decision of the chair, for that I think may be technically correct; but I will vote no.

Mr. KING. Mr. Clerk, I desire to have my vote recorded. I did not hear the call.

Mr. AINSLIE. There has been so much noise here that I call for the reading of the roll call by the clerk.

The CHAIR. The secretary will read the names.

The SECRETARY reads the roll call:

Yeas: Ainslie, Anderson, Batten, Beane, Bevan, Blake, Cavanah, Chaney, Clark, Coston, Crutcher, Harris, Hays, Hogan, Jewell, King, Kinport, Lamoreaux, Myer, Mayhew, Parker, Pefley, Pierce, Reid, Sinnott, Standrod, Steunenberg, Stull, Taylor, Underwood, Vineyard, Whitton—32.

Nays: Allen, Armstrong, Beatty, Campbell, Glidden, Gray, Hammell, Hampton, Harkness, Hasbrouck, Heyburn, Howe, Lemp, Maxey, McConnell, Melder, Morgan, Moss, Pinkham, Pyeatt, Robbins, Savidge, Shoup, Sweet, Wilson—25.

The CHAIR. On the question as to whether the decision of the chair shall be sustained, the vote stands yeas 32, and nays 25, and the decision of the chair is sustained.

ARTICLE XIX.—APPORTIONMENT. SECTION 1.

Mr. McCONNELL. I move to lay the substitute on the table, and on that I demand the yeas and nays. (Seconded).

Mr. REID. I ask that the substitute be read.

SECRETARY reads the substitute.

Mr. MAYHEW. Mr. President—

The CHAIR. The substitute has been offered by the gentleman from Nez Perce to strike out Section 1 and adopt the substitute, which has been read from the secretary's desk. The motion is made by the gentleman from Latah to lay the substitute upon the table.

Mr. MAYHEW. Well, the gentleman was making inquiry if the vote was taken now, it does not go to the adoption of it?

Mr. REID. Oh, no.

Roll call:

Yeas: Allen, Armstrong, Beatty, Campbell, Chaney, Glidden, Gray, Hammell, Hampton, Harkness, Hasbrouck, Hays, Heyburn, Howe, Lemp, Lewis, Maxey, McConnell, Melder, Morgan, Moss, Pinkham, Pyeatt, Robbins, Savidge, Shoup, Sweet, Underwood, Wilson, Mr. President—30.

Nays: Ainslie, Anderson, Batten, Beane, Bevan, Blake, Cavanah, Clark, Coston, Crutcher, Harris, Hogan, Jewell, King, Kinport, Lamoreaux, Mayhew, Melder, Parker, Pefley, Pierce, Reid, Sinnott, Standrod, Steunenberg, Stull, Taylor, Vineyard, Whitton—29.

The CHAIR. On the motion to lay the substitute offered by the gentleman from Nez Perce on the table the vote stands yeas 30, nays 29, and the substitute is laid upon the table. The question now recurs upon the question before the convention——

Mr. REID. I rise to make parliamentary inquiry. A motion to lay the substitute on the table carries with it the original proposition also, does it not?

The CHAIR. I certainly do not consider so, when the substitute is entirely a new proposition.

Mr. REID. I just wanted to submit what is the usual ruling on such questions.

The CHAIR. Gentlemen, it is moved by the gentleman from Bingham and seconded, that in line 21 of Section 1 of the pending measure, the words "and Owyhee" be stricken out, and the word "counties" be made "county," so that it will read: "The Thirteenth shall consist of the county of Elmore and shall elect one senator." To that an amendment is offered by the gentleman from Alturas to strike out the words "and Owyhee" and put in the words "and Alturas," so that it will read: "The Thirteenth shall consist of the counties of Elmore and Alturas, and shall elect one senator." The question is first upon the amendment to the amendment.

Mr. STULL. Mr. President, the vital principle of our institutions is that laws shall be passed with the consent of the governed. Now, Mr. President, if you were to go into Elmore county today and make the proposition, shall Elmore county be joined to Alturas, as proposed by this amendment, there would not be one vote, not one in that county. We desire first of all that we shall have one senator, but——

Mr. BEATTY. Mr. President.

Mr. STULL. (Continuing)—but if we do not have a senator——

Mr. BEATTY. Mr. President.

Mr. STULL. I do not yield the floor.

Mr. BEATTY. For a question?

Mr. STULL. No; no. I do not want any questions. We desire first of all that Elmore shall have a senator as it is entitled to. If in the wisdom of this convention it be decided that Elmore shall never have a senator, do not join us to Alturas county.

Mr. CAVANAH. Wipe us out first.

The CHAIR. The question recurs first upon the amendment of the gentleman from Alturas to strike out the word "Owyhee" and insert the words "and Alturas."

The vote was taken and the amendment lost.

The CHAIR. The question now recurs upon the amendment offered by the gentleman from Bingham to strike out the words "and Owyhee" and change the word "counties" to "county," so that the clause as amended will read, "The Thirteenth shall consist of the county of Elmore and shall elect one senator." (Carried).

The CHAIR. What is your pleasure with regard to this section?

Mr. GRAY. I move the adoption of the section. ("Question, question." Carried).

SECTION 2.

Section 2 was read.

Mr. SHOUP. I move the adoption of the section. (Seconded).

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

SECRETARY reads: Amend line 3 by striking out the word "three" and insert the word "four." Strike out line 4. Amend line 5 by striking out the word "two" and inserting the word "three." Amend line 10 by striking out the word "two" and inserting the word "one," and add after line 10, "the counties of Custer and Lemhi one member." Amend line 11 by adding "the counties of Elmore and Logan and Owyhee one member." Amend line 18 by striking out the word "two" and inserting the word "one." Strike out line 24.

Mr. SHOUP. I have heard of gentlemen being good

at ciphers. I think the gentleman from Latah should be given a chromo.

Mr. CAVANAHA. I think so too. I second that motion.

Mr. SHOUP. Under his amendment he proposes to give the county of Custer, with a vote of 797, one member in the house of representatives, and give the county of Washington, with a vote of 763, two members. He gives the county of Lemhi, with a vote of 763, only one member also. Here are two counties he gives one member who have more votes than the county of Washington to which his amendment would give two members.

Mr. CAVANAHA. And gives Lemhi one-third of a member, with 685 votes.

Mr. McCONNELL. Mr. President, the chairman of the committee suggests that I am entitled to a chromo for my mathematics, if I understand it correctly. If that is a fact, I think he is entitled to a large steel engraving, because he ranks me, certainly, in his style of mathematics. The object of this amendment has been to try and prevent such an apparent misrepresentation or over-representation as the gentleman tried to gain for his county. These amendments must be all taken together to be properly understood. The county of Custer polls 797 votes; 444 would require them to have a representative. They got those two members, one additional one on 353 votes. I have made no alterations in regard to Washington county. The county of Alturas only got two members, and the county of Ada with an addition of 337 votes they make no allowance for when attaching it to Elmore. The county of Lemhi they give an additional member for 319 votes. Yet they do not say anything about giving an additional member to Ada for their 337 votes. Now, they have an increase; they had one senator for each of those counties, which is more than they were entitled to under the count. If we give the county of Custer one representative, the counties of Lemhi and Custer one member, and give the county of Lemhi one member, taking into consideration the

additional representation they get in the senate, we will have the equilibrium maintained by their then receiving a representation for twelve votes more than they have in the two houses. They will then be entitled under that provision to a representation for twelve votes in the two houses, more than they have actually got. I am looking a little after the interests of Lemhi and Custer, and I am trying to divide this surplus representation which they have under this bill, around among the other counties. I think in the judgment of the chairman in trying to gain a large representation for his county, he lost sight of mathematics entirely. However, I would be willing to grant him his steel engraving.

Mr. SHOUP. As regards this apportionment for those counties the gentleman has alluded to, there was no objection at all in the committee, which was composed of eighteen members. This question was never raised, that the counties of Lemhi and Custer were given more representation than they were entitled to. Those two counties taken jointly have 1,560 votes. Giving them two members in the house of representatives still leaves them 771 votes unrepresented in the house of representatives. We have got other counties with a smaller vote than either of those counties with the same representation they have got, as I pointed out to the gentleman; the county of Washington which is left unchanged has the same representation in both houses that the other counties have. Now, if we were to give either one of those counties—say the county of Lemhi, the smaller one of the two—a joint member with some other county, where would we attach it? There is no small county connected with it. We have to attach it to Custer county, which only lacks a few of having enough for two members.

Mr. McCONNELL. I would ask the gentlemen of the convention to take their pencils and set down these figures and be yourselves the judges as to the fairness of this. The county of Custer polls 797 votes. Requiring 444 votes for one member would leave a surplus of

353 votes. The county of Lemhi polls 763 votes. Deducting 444 would leave 319 votes surplus for Lemhi. Now, 353 plus 319 would equal 672 votes between the two counties to be represented, giving them a joint representative in the house, and taking 444 votes would leave them 228 votes yet unrepresented in the house. But they have a representation of 91 votes over in Custer, in the senate, and 125 votes in Lemhi, showing that they have a representation in the senate of 216 votes more than they are entitled to. They have 216 more representation in the senate, and they are short 228 in the house. So they lose their representation in the house and gain it in the senate, and come more nearly being equally represented according to apportionment than any county in this state will be, as there is only the slight difference of 12 votes. Now, these counties are not situated as some of the other counties are. We have heard a good deal about the larger counties. The larger counties, with the exception of Shoshone, are agricultural counties, and there is a large class of people in those counties that are not represented at all, taking the representation on the basis of the vote. And while I am willing to concede anything that is fair to any smaller county, yet I don't think it is right to give those counties so much larger representation than the larger counties in proportion to their population. They have the advantage under this amendment which I propose of being represented, having any over-representation in the senate. I think it is a very fair amendment, and I hope it will be adopted.

Mr. CAVANAHA. The way the secretary read it, you strike out line 4. Is that right?

The CHAIR. Does the gentleman desire a division of this amendment?

Mr. McCONNELL. If any gentleman desires. They properly should be voted on together, I think.

The CHAIR. The chair is of the opinion that it would be more fair and equitable to divide it.

Mr. McCONNELL. I have no objections.

Mr. BEATTY. I want to offer an amendment to that amendment: I think in line 11 he proposes to add the words "Logan and Owyhee," so as to give Elmore, Logan and Owyhee one member. I desire to amend, if the gentleman will accept it, by striking out "Owyhee" and leaving Owyhee alone for a member, instead of each one a third.

The CHAIR. There is an amendment upon each one of these clauses, and we will get into everlasting dispute.

Mr. BEATTY. Well, I simply ask if the gentleman will accept that amendment.

Mr. McCONNELL. What is the amendment?

Mr. BEATTY. To strike out the word "Owyhee" in line 11, so as to leave the counties of Elmore and Logan with one-half in each, instead of third each. I understood his amendment to be this, that in line 11 he adds "Logan and Owyhee."

Mr. McCONNELL. I will accept that amendment.

Mr. SHOUP. I rise to a question of order on that. The legislative bill provides that each county shall be entitled to one full member of the house of representatives. If this is taken or accepted as an amendment to the amendment of the gentleman from Latah, the half member with Elmore and Ada is stricken out, and now you attach the other one member that Elmore is entitled to to some other county, and it will not give Elmore one whole member.

Mr. CAVANAHA. Gives her only one-third.

Mr. SHOUP. Elmore then will not have the full representation in the house of representatives, which is out of order.

The CHAIR. I think that is the operation of the amendment, and the chair will hold it is out of order. And any other amendment which deprives a county of one representative in the house. We will take this vote, gentleman, upon each amendment as it arises. The first one is to amend line 3 by striking out the word "three" and inserting the word "four" so it will read: "The

county of Ada, four members." All those in favor——

Mr. McCONNELL. Before that is put I desire to say that the amendment does not amend line 11; I do not strike out line 11. Before they vote on this, I want that understood. We allow the county of Elmore one member, and the counties of Logan, Elmore and Owyhee one member.

Mr. GRAY. Would not the first and second amendment have to go together? I will ask the mover if that is not the idea.

The CHAIR. What is the desire of the gentleman with regard to that matter? Mr. Gray inquires whether it is not a part of the same amendment to strike out line 4.

Mr. McCONNELL. We may give to Elmore in line 11 what we lose by striking out line 4.

The CHAIR. Then it is really a part of the same amendment to strike out line 4 and the word "three" in line 3 and insert "four."

Mr. BEATTY. It seems to me these amendments are all so connected together that we cannot vote upon them separately, because one depends upon the other. It seems to me they ought to be voted upon as an entirety, and if we clearly and fully understand the amendments before we vote upon them, there will be no difficulty.

Mr. MAYHEW. I would like to inquire.

Mr. SHOUP. As I understand the motion of the gentleman from Latah, he intended to give Ada county four members instead of three and a half. Now, if he gives Ada four members instead of three and a half, the other half member will have to be taken from Elmore county. That is where he proposes to take it and give it to Ada.

Mr. McCONNELL. No, the gentleman is mistaken. We are taking something from Lemhi and Custer and giving it to Elmore.

Mr. MAYHEW. Does your amendment give Ada four members and a half.

Mr. McCONNELL. Only four members. We strike out line 4.

The CHAIR. Are you ready for the question?

Mr. CLARK. Mr. President——

Mr. SHOUP. Mr. President, I have not yielded the floor yet.

Mr. CLARK. I simply rise to make an inquiry. The motion is to strike out all of line 4, and in line 11 to add "Logan and Owyhee." Now, where does Elmore county get one representative by itself, as the rule prescribes?

Mr. McCONNELL. The county of Elmore gets one full member and a joint member with the counties of Logan and Owyhee.

The CHAIR. The amendment is to add at the end of line 11 the words "the counties of Elmore, Logan and Owyhee, one member," which will leave the county of Elmore with one member and a third of a member in addition. It is not to strike out any part of line 11, but to add to it.

Mr. CLARK. The county of Elmore then under line 11 gets one member in connection with Logan and Owyhee.

Mr. McCONNELL. Yes, and one member by itself.

Mr. CLARK. It means then that the county of Elmore gets one member, and in addition with the counties of Logan and Owyhee it gets one member.

Mr. McCONNELL. Yes.

The CHAIR. It is moved and seconded that line 4 be stricken out; that line 3 be amended by striking out "three" and inserting "four," so as to give the county of Ada four members. (Vote). The nays seem to have it.

A division was called for and a rising vote resulted yeas 8, and the amendment was lost.

Mr. HEYBURN. I move the adoption of the section as reported. (Seconded).

Mr. WHITTON. Mr. President, the amendment——

The CHAIR. The amendment is out of order, as we are now proceeding upon one amendment.

Mr. HEYBURN. I thought it was all included in the motion.

Mr. WHITTON. Mr. President, I want to speak to this second amendment.

Mr. McCONNELL. I will withdraw my amendments now. When one is voted down it carries all with them.

Mr. HEYBURN. I now renew the motion to adopt the section as reported. (Seconded).

Vote and carried, and Section 2 is adopted.

ARTICLE XIX. ADOPTED.

Mr. SHOUP. I move the adoption of the article as a whole. (Carried).

The CHAIR. The question is now upon fixing a time for the final reading of the article.

Mr. MAYHEW. I move that this article be considered engrossed; there are no amendments to it to amount to anything; and that it be made a special order for final reading at two o'clock this afternoon.

The CHAIR. The chair will ask the gentleman, the chairman of the committee on Engrossment, whether it could not be engrossed by two o'clock.

Mr. HASBROUCK. I think it can.

Mr. MAYHEW. Very well, I have no objections.

The CHAIR. it is moved and seconded that the bill be engrossed and the hour of two o'clock this afternoon fixed for its final reading. (Carried).

REPORT OF COMMITTEE ON SCHEDULE.

The CHAIR. The next question that comes before the convention according to the standing order of business, is the report of the committee on Schedule.

Mr. GRAY. Mr. President, the printed bills have not been distributed.

The CHAIR. The secretary informs the chair that they have not yet come from the printing office.

Mr. MAYHEW. I demand the report of the committee on Printing. We have not had a report since the convention has been in session.

The CHAIR. No individual member can demand a report from any standing committee.

Mr. ALLEN. The Printing committee have read this report; the proofs have been read and the printers are printing as rapidly as possible and agreed to have it here by noon or before.

Mr. HEYBURN. I would state for information, that I have just inquired, and I understand they have gone down after it, so I guess probably in a few minutes it will be here.

Mr. ALLEN. I want to say for the benefit of the convention that the printing committee has done all it could for the hastening of this report.

Mr. REID. I would suggest to the chairman of the committee on Schedule that I have had some talk with the gentleman who represented the minority report, and it was thought if we let this matter go over to two o'clock, during recess we could agree on a certain time it was to be debated, and agree when the vote should be taken on it, so we could expedite the business of the convention, and I think if we adjourn now or go on with some other business and let this go over until afternoon, that would be advisable. And if that meets with the approval of the chairman of the minority report, and with the consent of the house, I will make that motion.

Mr. GRAY. I will agree to that.

Mr. REID. I move that that report now be laid over until two o'clock, to be considered then. (Carried).

Mr. BEANE. I move we take a recess until two o'clock.

ARID LANDS—LETTER OF SECRETARY OF THE INTERIOR.

Mr. MORGAN. I have here a reply of the secretary of the interior to the memorial sent by Governor Shoup lately, and I would like to have it read for the information of the convention.

SECRETARY reads:

Washington, D. C.

Honorable G. L. Shoup, Governor,
Boise City, Idaho.

I have just received resolutions adopted by the constitutional convention transmitted by you to me through telegram. A full reply to this question I think is found in the following provision of the appropriation act of Oct. 3, 1888,¹ which reads as follows: "For the purpose of investigating the extent to which the arid region of the United States can be redeemed by irrigation and the segregation of the irrigable lands in such arid region, and for the selection of sites for reservoirs and other hydraulic works necessary for the storage and utilization of water for irrigation and the prevention of floods and overflows, and to make the necessary maps, including the pay of employees in field and in office, the cost of all instruments, apparatus and materials, and all other necessary expenses connected therewith, the work to be performed by the geological survey under the direction of the Secretary of the Interior, the sum of one hundred thousand dollars or so much thereof as may be necessary. And the director of the geological survey under the supervision of the secretary of the interior shall make a report to congress on the first Monday in December of each year, showing in detail how the said money has been expended, the amount used for actual survey and engineer work in the field and in locating sites for reservoirs and an itemized account of the expenditures under this appropriation. And all the lands which may hereafter be designated or selected by such United States surveys for sites for reservoirs, ditches or canals for irrigation purposes, and all the lands made susceptible of irrigation by such reservoirs, ditches or canals, are from this time henceforth hereby reserved from sale as the property of the United States, and shall not be subject after the passage of this act to entry, settlement or occupation until further provided by law; *Provided*, That the President may at any time in his discretion by proclamation open any portion or all of the lands reserved by this provision to settlement under the homestead laws." This is the law of today, unreserved, unrepealed and in full force. You perceive its vast extent, and the immense consequences that will follow therefrom in the direction that your resolution points unless there be further action in relation thereto by congress. It follows necessarily that the speculators, corporations or other persons referred to in the resolutions are under the effect of this law and unable to obtain the advantage that you say they are seeking unless the law is repealed, or the President opens the lands to settlement under the homestead laws. The government must have and will take everywhere

¹—25 Stat. at Large, 526.

absolute control of every acre of arid land that may be redeemed by the system of reservoirs, canals and ditches provided in the appropriation act mentioned. The subsequent appropriation act has not affected the above provision. This I think is a full solution of the whole trouble between the territory of Idaho and Utah, and parties entering upon these lands in either territory will be subjected to the superior title and further control of the United States. I have directed the commissioner of the land office to notify the local officers of the law and prohibit entries of the kind you specify, and I have also ordered the superintendent of the geological survey to proceed rapidly with the surveys on Bear River; the statute you observe reserves these lands from the dates thereof, and the assistant attorney general of this department agrees with me that it is constitutional and effective to the extent expressed. I fully appreciate the conflict of rights that must arise between territories and also between territories and states, but these can and will be better regulated by national control than local conflicts, and contradictory legislation, if even that statute to which I have referred is not known in western territories to the extent at least that it ought to be, and I will have your dispatch and this published today in full.

John W. Noble, Secretary of Interior.

Mr. VINEYARD. I wish to inquire what is the purpose of this dispatch.

Mr. MORGAN. The object of reading it here was to give the convention information.

Mr. VINEYARD. I saw this two or three times in the newspapers.

Mr. MORGAN. I am sorry the gentleman has been informed of this twice, Mr. President.

The CHAIR. The answer of the secretary of the Interior will be entered in the journal of the convention unless there is objection.

COMMITTEE MEETINGS.

Mr. HASBROUCK. Before the convention takes a recess I desire to announce that there will be a meeting of the committee on Ways and Means, and I desire all members to be present, and I request that the members of the special committee on Finance meet with us, directly after adjournment.

Mr. BEATTY. Mr. President, I respectfully insist

that all members of the committee on Revision meet in this room immediately on adjournment.

The CHAIR. The chair will announce that the committee on Address will immediately on recess meet in the supreme court room.

It is now moved and seconded that the convention take a recess until two o'clock this afternoon. (Carried).

AFTERNOON SESSION.

Convention called to order by the president at two o'clock.

The CHAIR. The first thing in order is the consideration of the report of the article, which was agreed upon this morning, and made a special order for consideration at two o'clock.

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

ARTICLE XIX.—APPORTIONMENT. FINAL PASSAGE.

SECRETARY reads: Mr. President, your committee on Engrossed Articles of the Constitution have the honor to report that they have examined the article on Apportionment, and find the same correctly engrossed. Hasbrouck, Chairman.

The article on Apportionment was thereupon read by the secretary.

The CHAIR. The question is upon the final passage of the article just read. The secretary will call the roll.

Mr. REID. Mr. President, I desire to vote No, and to state in doing so that this bill violates the whole principles upon which the convention was called, and it is unjust to the county and state to gerrymander in the interest of partisanship. I find the county of Custer with only 797 votes given a senator, with Nez Perce having about the same number of votes, with no more than half a representative; I therefore vote no.

Roll call:

Ayes: Ainslie, Allen, Anderson, Bevan, Blake, Cavanah, Chaney, Clark, Coston, Crutcher, Glidden, Gray, Hammell, Hampton, Harkness, Hasbrouck, Hays, Heyburn, Hogan, Howe, Jewell, King, Lamoreaux, Lewis, Maxey, Mayhew, McConnell, Melder, Myer, Morgan, Moss, Pefley, Pierce, Pinkham, Pyeatt, Robbins, Savidge, Sinnott, Shoup, Stull, Sweet, Underwood, Whitton, Wilson, Mr. President—46.

Nays: Batten, Beane, Beatty, Harris, Kinport, Parker, Reid, Standrod, Steunenberg, Taylor, Vineyard—11.

The article was adopted and referred to the committee on Revision and Enrollment for incorporation in the constitution.

STENOGRAPHIC NOTES OF PROCEEDINGS.

Mr. HASBROUCK. Mr. President, I ask the consent of the convention to introduce a resolution.

SECRETARY reads: *Resolved*, That it is the sense of the convention that it is not advisable to have the stenographic notes of the debates of this convention transcribed or published at this time; but that said notes be deposited with the territorial secretary. Hasbrouck.

Mr. HASBROUCK. For the information of the convention I will say that I have conferred with one of the stenographers, Mr. Sholes, and he informs me that there will be about six thousand folios, and that it will cost about \$1,200 to transcribe these notes. And furthermore, that it will make a book about as large as the Revised Statutes of Idaho, and if they are published it will cost probably from \$3,000 to \$4,000. It is the sense of the committee on Ways and Means, and also the special committee on Finance, to whom I referred the matter, that it was not in the interest of economy to have those notes at the present time transcribed or published. Therefore, I would like to see this resolution adopted.

Mr. BATTEN. I am rather opposed to the resolution. I think it would be a very great misfortune indeed if the eloquence with which we have been stormed day after day, should be confined to the unread-

able hieroglyphics of the stenographer and allowed to rust away.

Mr. HEYBURN. Mr. President, I do not know what it has cost to take these notes originally, but if they are not put in such shape that they can be used in the future, whatever it has cost is that much money thrown away. I do not know what the object of this convention was in providing that two stenographers should be in attendance to report the proceedings of the convention, unless you have those notes transcribed. I should think it would not be necessary or wise to have them printed; but I doubt if there is anybody on this floor, except the stenographers that can ever use or read those notes, and it seems to me they should be transcribed, and that transcript filed with the secretary. If the notes alone are filed, you might as well file them in Sanscrit. I think in the interest of economy, we should not throw away what we have done. I do not think it is material whether this "eloquence" has been or will be perpetuated or not; that is rather a trivial side of the case; the business side of this case is whether we are going to get any value for the money we have expended, and that can only be done by having these gentlemen, who may not, and doubtless will not be at hand if the state ever wants these notes transcribed, in which event it would be utterly helpless. Those notes are not something that any man can transcribe; one man cannot read the shorthand notes of another.

The CHAIR. It is moved and seconded that the notes of the stenographers of the debates of the convention shall not be transcribed in longhand, but that the notes shall be deposited in the archives of the territory.

Mr. HEYBURN. I move to amend the motion so that it shall provide that these notes shall be transcribed and filed with the secretary of the territory, but not published. (Seconded).

Mr. SWEET. I would like to ask two questions for information. The first one is, whether any other stenog-

rapher can transcribe these notes. And second, what it will cost simply to have them transcribed without publishing. The chairman of the committee on Ways and Means, I suppose, can answer the latter question.

Mr. HASBROUCK. One of the members of the convention informs me that he thinks that other stenographers in case of an accident happening to those who have taken them, can transcribe these notes.

Mr. MORGAN. Do I understand that one of the stenographers so informed you?

Mr. HEYBURN. I will ask Mr. Sholes' opinion on the subject.

Mr. HASBROUCK. Mr. Sholes told me that it was doubtful whether they could or not; that it might be so, but that they could not do it as well. As to the cost of it, I also got that from Mr. Sholes, that it will cost, at twenty cents a folio, \$1,200; that probably some of it might be cut out and reduce the cost to \$1,000.

Mr. MAYHEW. I am just informed by one of the stenographers to the effect that the transcribing by another cannot be done; that one stenographer cannot write out another's notes. He may write out part of it, but not entirely.

Mr. HEYBURN. We have at least two gentlemen on the floor, members of this convention, who probably can give us some light on it, because I think they both understand the science.

Mr. STULL. No man who has ever had practical experience in stenographic work would ever suppose that one stenographer can make an exact transcript of another's notes. One stenographer can take the notes of another stenographer and make an abstract of it, but he never could make a verbatim transcript; it is not possible.

The CHAIR. The question is first upon the amendment offered by the gentleman from Shoshone, Mr. Heyburn, that it is the sense of the convention that these stenographic notes containing the debates of the convention shall be transcribed into long hand, but that they shall

not be published. (Vote). The chair is in doubt. Those favoring——

Mr. BEATTY. I want to ask a question before I vote, whether it is contemplated that each stenographer will make a report or whether the work will be divided.

Mr. HEYBURN. We only want one copy of it; that is the object and intention of my motion.

Rising vote, yeas 40, nays 5, and the amendment is adopted.

The CHAIR. The adoption of the amendment disposes of the motion that was made.

Mr. HEYBURN. Mr. President, if there is nothing before the convention, I ask leave to introduce a resolution.

SECRETARY reads:

RESOLUTION IN RE TARIFF ON LEAD ORE.

Whereas, The laws of the United States provide for the collection of a duty on imported lead ore, and

Whereas, Under a ruling of the treasury department, Mexican and British lead ores are admitted, duty free when the value of the silver contained in them exceeds the value of the lead, and

Whereas, The prosperity of Idaho Territory depends largely upon the lead mining industry, which the present ruling is fast destroying, and

Whereas, The claims of the ore producers to obtain the protection guaranteed them by the law have been carefully and exhaustively presented to the honorable secretary of the treasury, and

Whereas, The said secretary has made no decision of the question presented, and the uncertainty caused by the delay in rendering such decision is almost as detrimental to our interests as an adverse decision would be, and

Whereas, We have no authority or statutory right to become parties to a suit in which the justice of our claims can be decided by the courts. Now, therefore, be it

Resolved, That we respectfully call the attention of the President of the United States to the fact that the ruling of the treasury department deprives this great industry of the protection which by law it is entitled to, and works great hardship upon the thousands of persons engaged in this industry, and respectfully request them to take such steps as will secure the

enforcement of law by the treasury department in such manner as to secure to this industry the protection to which it is entitled.

Mr. HEYBURN. I move the adoption of the resolution. (Vote and carried).

COMPENSATION OF STENOGRAPHERS, ATTACHES AND MEMBERS OF CONVENTION.

Mr. McCONNELL. Mr. President, I am not aware what the report was of the committee on Ways and Means concerning finances. The question was brought up the other day in regard to wages to be paid our stenographers; but at the time we had that question under consideration the best bid we could have for the vouchers, as chairman of the special committee appointed to investigate for that purpose, was a discount of 33 1-3 per cent. I desire to state to the convention that I have a further bid today, which is a discount of 25 per cent. The object of the committee on Ways and Means was to place a figure upon the wages of our stenographers which, after deducting the discount proposed, would give them \$10 a day, which the convention is in honor bound to pay them. In consideration of the fact that we now have a better price offered for those vouchers, I think it would be necessary to take that matter under consideration, if it has not already been settled, as to the price determined upon for the wages of the stenographers. They do not ask more than \$10 a day, and under the report made, as I understand, by the committee on Ways and Means, they would get more for their vouchers than the price agreed upon. Thirteen and one-third dollars per day under the offer we now have, would give them a net income of \$10 per day. I would like to ask whether there was any action taken on that report, and how the record now stands.

The CHAIR. The report was adopted, fixing it at \$15 a day, by reason of the fact of the discount of one-third.

Mr. MORGAN. I would ask unanimous consent of

the convention to allow the Ways and Means committee to fix the wages of those gentlemen at such a price as will net them \$10 per day. We are trying to do the best we can with this subject, in getting as much as we can for the vouchers, and we may have still a better bid for them; and if the convention will instruct the Ways and Means committee to report as to the wages these gentlemen shall receive, I am satisfied the committee will deal fairly by all parties concerned. We do not have to have it appear on the record that we pay more to any of the employees of the convention than what they were originally hired at. I would therefore move that it is the sense of this convention that the Ways and Means committee be instructed to fix the wages which will be paid these gentlemen at such a price that they shall receive \$10 per day after receiving their vouchers. (Seconded).

Mr. CAVANAHA. I wish to offer an amendment to that, that all the attaches of the convention be added. I think they should get their wages as well as the stenographers.

Mr. McCONNELL. Do you include the members?

Mr. CAVANAHA. No, I think they are getting too much now.

Mr. McCONNELL. I prefer to have the convention vote upon the amendment.

Mr. BEATTY. I desire to add an amendment, also to direct the Ways and Means committee to provide for the pay of the clerk who is now enrolling this constitution. And I desire to say that he is working out of hours, and ought to have more days allowed him than the actual number of days allowed, and leave that to the committee; and also the question of his pay. I hope the committee will fix it at a very fair sum, because he has done a most excellent piece of work. I make that as an amendment to the motion, that the committee be instructed to arrange with him for his pay with the other officers.

Mr. REID. I hope the amendment of Mr. Cavanah

will prevail. Our pay is fixed at six dollars; by cutting it down a third or a fourth we get about what legislators get, four or five dollars a day, four and a fraction. We have allowed our reporters their net price, and our employees and clerks, etc., who have been faithful and obliging, and I hope the pay of all the members of the convention, all the employes, will be fixed at such a price as to net them what we have allowed them. I hope the amendment offered by the gentleman from Elmore will prevail. It will make very little difference; possibly a hundred or two dollars in the price, and congress will not stumble at that, after the matter is explained to them; and these gentlemen who discount the vouchers, taking the risk, will be paid for their risk, and these faithful employes—they do not get mileage as we do, and most of us, you know, do not ride on passes, and the twenty cents mileage will more than pay the five cents we are out.

Mr. McCONNELL. The reason I desire to have the vote taken on the amendment is, not that I would wish to have the wages of the employes cut down; but with regard to the wages of the stenographers, we do not want to take any chance on that vote, because it is understood that they are to receive that amount; nor do I desire that they should receive any more, for while we are in honor bound to guard the interests of the gentlemen we have employed, we are also in honor bound not to pay any more than we originally employed them for. I think the employes of the convention ought to receive additional compensation sufficient to make up the discount, and I will vote for the amendment offered by the gentleman; but I would like to have it voted upon separately.

The CHAIR. It is moved and seconded that the committee on Ways and Means be instructed to fix the pay of the stenographers at such price as after deducting the best discount that can be obtained, makes their pay net them each \$10 a day. To that an amendment is offered by the gentleman from Elmore that this order

be extended to all the attaches of the convention; that is, that the price be fixed at such a figure that after allowing the best discount, what is left is equivalent to the amount to be paid as fixed by the order of the convention. To that the gentleman from Alturas offers as an amendment that the committee on Ways and Means be authorized to fix the pay of the enrolling clerk, and whatever rate is fixed, that it shall be fixed high enough so that after deducting the discount he will realize the amount fixed as his compensation in cash. The question will come up first on the adoption of the amendment offered by the gentleman from Alturas. (Carried). The question recurs now on the amendment offered by Mr. Cavanah. (Carried). The question is now upon the amendment offered by the gentleman from Latah with reference to the stenographers. (Carried).

Mr. WILSON. Mr. President, I have a resolution.

PRINTING COPIES OF CONSTITUTION.

SECRETARY reads: *Resolved*, That 2,000 copies of the constitution formulated by this convention be ordered printed in pamphlet form, and deposited with the secretary of the territory for distribution. (Seconded).

Mr. HEYBURN. Mr. President, I move to amend by making it 5,000.

Mr. WILSON. I accept the amendment.

Mr. MAYHEW. I think that resolution ought to lie on the table until we get through making the constitution. I therefore move that it be laid on the table for the present and taken up after we get through. (Seconded).

Mr. WILSON. We may finish this at such an hour that we won't have time for anything of that kind, and if we do not make any it would not be necessary to print it.

The CHAIR. The motion to lay on the table is not debatable. (Vote). The chair is in doubt. (Rising vote). The vote is yeas 20, nays 28, and the motion to

lay on the table is lost. The secretary will report the resolution substituting the word "five" for the word "two."

Mr. AINSLIE. This resolution seems to be objectionable to a large number, and it seems to me under Rule 56 it lies over until tomorrow anyway. I think it better go over until tomorrow.

Mr. WILSON. I raise the point of order that they did not object to the consideration of it, and it has been acted on.

Mr. AINSLIE. Mr. President——

The CHAIR. The chair will have to rule that the point of order is not well taken.

"Question, question."

SECRETARY reads: *Resolved*, That 5,000 copies of the constitution formulated by this convention be ordered printed in pamphlet form and deposited with the secretary of the territory for distribution. (Carried).

ARTICLE 21.— SCHEDULE.

The CHAIR. The next thing in order is the consideration of the report of the committee on Schedule, which lies upon the speaker's table.

Mr. GRAY. Mr. President, I will state that the majority report was handed to us just at recess. The minority report was handed in as we met today. The minority report is quite voluminous. I understand the majority report myself, but I am speaking for others who perhaps wish to examine them both. The minority report was never examined in the committee, and I myself would be desirous of it, and I have been spoken to by quite a number of members here, that they would like to examine it before action is taken. It seems to me quite a voluminous document, and as it never was in the committee, never has been discussed at all, and was only read from the secretary's desk, and now comes to us for the first time, I will say, as chairman of the committee on Schedule and Ordinance, that I would

like to have every man well informed upon this. One reason is that there seems to be a great interest taken in it, and therefore I would ask that the convention might have an opportunity to do so, and in view of that I would ask that the convention adjourn until 9 o'clock tomorrow morning.

Cries of "No, no, no, no, no."

The CHAIR. Objection is made.

Mr. GRAY. I am willing to take a recess; I am only asking in a spirit of fairness, that this matter may be fully considered. I believe these reports were both reported by the chairman, I acting as such, and it has only come here, and it has certainly never been examined as it should be examined by those that are intended to act upon it as they want to act, advisedly thereon. The minority report has not been investigated before the committee; it has just come to light.

The CHAIR. Does the gentleman move an adjournment until tomorrow morning or simply ask unanimous consent?

Mr. GRAY. I will make a motion that we adjourn until tomorrow morning at 9 o'clock. (Seconded).

Mr. MAYHEW. I desire to amend that motion. It was the hope of a great many—I move that when the convention take a recess it will be until 8 o'clock this evening.

Cries of "No, no, no, no."

Mr. GRAY. I will submit to that.

Mr. MAYHEW. I want to get through today.

Mr. REID. While this motion is not debatable, I would like to say, Mr. President, that there are ten of us that have set apart tonight to draft a memorial to the people to accompany this constitution, and by doing that, and having the other committee at work finishing up this evening, we can all get away tomorrow night. Now with all deference to my friend, the chairman of the committee, there is only one point of difference between these two reports. The majority report simply provides for the submission of the constitution to

the vote of the people. The minority report provides that, and proposes to go farther and have an election of state officers and members of the legislature. I have read both of them through carefully, and that is really the only difference, except some little difference in the machinery. The majority report simply provides for submitting the constitution to the people. The minority report provides for that, and also that we elect a set of officers; and with that difference, I think we can in an hour or two consider and dispose of it this evening, turn it over to the Engrossing committee, and then the Revision committee makes its report, and they can do their work tonight and report it in the morning, and we can go home tomorrow.

Mr. GRAY. I find another provision in the report, which is different, and that is in relation to holding the election.

Mr. REID. Yes, that is to say, they provide for a state board, and the other provides for the machinery we have now. But the vital difference is that they want to elect state officers.

Mr. GRAY. But we have a different opinion as to the management of that. The only thing, Mr. President, is that I would like to have these people have all the opportunity they desire to understand this matter, whether it be so important or not for them; but there seems, from the manifest interest taken in it, that there should be time for consideration. I infer that they consider it very important, and therefore I want those members who have not had an opportunity to examine it, to have an opportunity to do it tonight, and I think it is but just that they should have it.

The CHAIR. It is moved and seconded that the convention take a recess until 8 o'clock this evening.

Vote and lost.

Mr. GRAY. The question is——

The CHAIR. Under Rule 51 the regular order of business is taking up this report in the committee of the

Whole, unless some other order is made by the convention.

Mr. GRAY. Is not this entitled to lay on the table?

The CHAIR. Rule 51 provides that all reports of committees containing matters to be incorporated in the constitution shall be considered in the order in which the reports are made. That upon their introduction and full reading before the convention, such matters to be incorporated shall lie upon the table, and be printed, and when printed shall be placed upon the calendar to be considered in the committee of the Whole. It has been printed and placed upon the calendar, and it is now in order to take it up in committee of the Whole.

Mr. MAYHEW. I move to suspend the rules, and that this report of the committee, both minority and majority reports, be considered in the convention. (Carried).

The CHAIR. Which one does the convention desire to take up first?

SECTION 1.

Section 1 of the majority report read, and it is moved and seconded that Section 1 be adopted.

Mr. GRAY. Mr. President, my understanding is that they should first both be read. To act upon it section by section without first reading the other report I would not think was altogether correct. There is no motion, as I understand it, here at all, to take up the majority report. There are two reports here, one the majority, and one the minority. Now, I ask that they be read, that the majority report be read, and then the minority report be read.

The CHAIR. If there is no objection, that course will be taken.

Mr. REID. They are both the same down to Section 5.

Mr. VINEYARD. Mr. President, these two reports have been read and printed.

The CHAIR. Is there objection made to the request

of the gentleman from Ada? If there is any objection made, the chair will decide the request is out of order.

Mr. BEATTY. I move the adoption of the first section as read. (Seconded).

Mr. GRAY. I am told now that they are the same down to Section 7.

Mr. SWEET. That is a fact, sir.

Vote on the adoption of Section 1. Carried.

SECTION 2.

Section 2 read, and it is moved and seconded that it be adopted. Carried.

SECTION 3.

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

SECTION 4.

Section 4 read, and it is moved and seconded that it be adopted. Carried.

SECTION 5.

Section 5 read, and it is moved and seconded that it be adopted. Carried.

SECTION 6.

Section 6 read, and it is moved and seconded that it be adopted.

Mr. BEATTY. I have an amendment.

SECRETARY reads: Amend by inserting after the word "all" in line 2 the word "general." (Seconded).

Mr. BEATTY. I will explain the reason of that. Under the registration law which we now have, there is a provision, which shall apply only to general elections. I presume it is the contemplation of this section that in voting upon this constitution it shall be in pursuance of all laws, including the registration law. As line 2 reads: "This constitution shall be submitted for adoption or rejection to a vote of the electors qualified

by the laws of this territory to vote at all elections." The registration law applies only to general elections, so this should read to apply to general elections.

Mr. MAYHEW. This is not a general election, unless you desire to put it off until next fall.

Mr. BEATTY. No sir, I will explain. "This constitution shall be submitted for adoption or rejection to a vote of the electors, qualified by the laws of this territory to vote at all elections."

Mr. MORGAN. That is a qualification of electors simply.

Mr. BEATTY. Yes, but it is only qualified voters and those registered who can vote at a general election. There is no provision of law for the registration of voters at any other election, and I presume it is the desire of this convention that when this constitution is submitted, it shall be submitted in pursuance of the provisions of the registration law, and that only applies to general elections. If you leave this out you cannot invoke the provisions of the registration law.

Mr. MORGAN. I think the gentleman is mistaken. I would like to know how they can be qualified to vote at all elections, unless also at all general elections.

Mr. BEATTY. Because they may be qualified to vote at some elections, and not general elections.

Mr. MORGAN. But this requires them to be qualified to vote "at *all* elections."

Mr. BEATTY. Well, possibly that would. I will withdraw my amendment.

Moved and seconded that Section 6 be adopted. Carried.

Mr. REID. Mr. President, I make the proposition to the gentleman having in charge the minority report, that we allow the majority report to be read in full, and then the minority report in full. That is, where they begin to differ, and then take the vote on the proposition as a whole. Because if the convention decides to elect state officers, they ought to adopt the minority report in full as a substitute for the majority. If they do not

decide it, but simply decide to submit the constitution, then I take it there would be no objection to the majority report; and to save time, and also to have it in harmony, I suggest we go on and read the balance of the majority report, and then come back and finish the minority report, and then vote upon the two propositions as an entirety.

Mr. SWEET. That is perfectly satisfactory so far as I am concerned.

The CHAIR. Is there any objection to that course being taken, as suggested by the gentleman from Nez Perce? There are no objections.

Mr. GRAY. All I have to say is, there are two propositions; perhaps it will be necessary to vote differently upon them.

Mr. REID. Well, we can ask for a division on them.

Mr. SWEET. I do not understand that we are doing anything more now than simply agreeing that the majority report and minority report shall now be read, and then we are ready to present them to the convention.

Mr. REID. Yes, I take it that the gentleman means that we can return to the next section——

Mr. GRAY. Yes, we can do that.

Mr. REID. And if we can have them read, and vote on the question of state officers first, and if there is any objection to the machinery of the minority report, we can vote on the question whether we shall have that machinery provided, or that provided in the majority report. I suggest that to save time and get at it.

SECTION 7.

SECRETARY reads Section 7 of the majority report and continues to the end of the article.

MINORITY REPORT ON SCHEDULE.

The secretary next reads the minority report, beginning with Section 7.

The CHAIR. What is the pleasure of the convention with regard to these reports?

Mr. REID. Mr. President, in order to bring up the question I move the adoption of Section 7 of the majority report.

The CHAIR. Are you ready for the question?

Mr. SWEET. Mr. President, I think this is perhaps as good a time as any for presenting the views of the minority, and although the minority report is not properly before the convention, still it has been heard, and the majority report has been heard, and we are now proceeding to the adoption of the majority report. It is probably as well now as at any time to discuss the principles and propositions involved in the two reports.

Mr. REID. I make the point of order—there is so much noise in the hall I cannot hear the gentleman as he proceeds.

The CHAIR. Gentlemen, you will please preserve order.

Mr. SWEET. If I have been correctly informed, Mr. President, by the privates and overseers having the matter in charge, the noses have already been counted and the result is already known. But so far as that is concerned, Mr. President, it makes no difference to me. As a member of the committee on Schedule, and the duty of investigating this matter having devolved upon me as one member of that committee, I did so, and I considered it a matter of duty, and in the interests of statehood, that a minority report should be presented, and if sir, there were no other men upon this floor who heard it, and if there were no other men upon this floor to vote for it, nevertheless, I should present it, and nevertheless, I should give my reasons why I think it should be adopted. Having presented that report, and having submitted my reasons therefor, I am ready, sir, to submit to the will of this convention and as it is expressed through a majority of its votes. The minority report is presented without any threats either as open secrets or otherwise; the minority report is presented

here upon its merits. There will be no withdrawals from this convention if it is not adopted; there will be nothing thrown in the way of the adoption of this constitution if it is not acceptable to the convention; on the contrary, I apprehend that every man who advocates the minority report, and every man who votes for it, if in the judgment and wisdom of the majority of this convention the minority report be rejected, will step into the field and work with all his might and main for the adoption of the constitution of the state of Idaho, and for its admission into the Union under such terms and conditions as the majority may agree to.

Now, sir, I beg to submit one word also, that borders, perhaps, on being of a personal character. If anything is true concerning the reports that have been going around here during the last few days and prior to the submission of these reports at all, and before the members of this convention knew what either report contained, it was already decided, and decided in advance how the convention should decide the question. Just exactly how the convention could pass upon the merits of either of these reports before seeing them, I could not understand, nor do I care; the effect is the same. But, sir, for the purpose of obtaining a decision, and for the purpose of obtaining a majority, reports have been circulated here that the minority report would be formulated in the interests of political jobbery, political trickery, or the advancement of some person or persons in the future in this territory. And sir, I have heard it intimated that my own name has been connected with some of these reports, and to such an extent that it was embarrassing for me to present the minority report. But I desire to say that these reports so far as I am concerned, so far as I have any knowledge on the subject, or so far as I have heard, are absolutely and unqualifiedly false; and that there is not now, and that there never has been even a shadow upon which to base them; and I say further, that any person who circulates that story in the future, circulates it knowing

that he circulates a falsehood. That is all I have to say on that proposition.

The opportunity for statehood, Mr. President, is now at hand. I do not claim that the report of the minority as here presented is infallible. It is at best but the judgment of men, and the judgment of all men is not infallible, or of any man. That being true, it is best and it is proper that inasmuch as statehood may be lost or won either by the adoption of the majority or the minority report, that both reports should be very carefully and fully considered. The first thing that I desire to call attention to in these two reports is the difference in the manner provided by each report for submitting this constitution to the people. Section 7 of the majority report provides that it shall be submitted to the qualified voters of this territory next November. It provides no machinery whatever for submitting this constitution to the people. It is true that you may intend that you will submit it through the ordinary channels; that it will be presented to the people just as tickets and candidates would be presented if this were a general election. I undertake to say that so far as the presenting of this constitution is concerned, so far as calling upon any officer to do any work or labor in connection with the presentation of this constitution is concerned; that so far as calling upon any man to act as judge or clerk of election, or to act as canvassing or returning board, you are absolutely without authority to command the act of one single man in the state of Idaho. I contend that this movement for statehood is revolutionary, and was revolutionary from its very inception; that from the call of the governor until such time as congress will by its own act say that this is legal, and thus admit us into the Union and thus legalize our acts, it is revolutionary and nothing else; and nothing can make it valid, and no act by any man in the territory or by any legislature, can compel any man in this territory to act in any capacity whatever. Therefore, Mr. President, I say that the minority report has presented to this con-

vention the full and complete machinery for submitting it to the people. We came here of our own accord. We have been in consultation for more than thirty days. We have never been without a quorum. I notice by reading the papers that at different times the Dakotas have been without a quorum; that Montana has worked hard to maintain a quorum; and these territories, Mr. President, were holding their conventions under an enabling act of congress, under and by virtue of which act every member was certain of his pay. The interest for statehood in Idaho is so great, that without money, and without any absolute guarantee of pay in any way, shape or form, the members of this convention have assembled in Boise and prepared a document, which they will shortly formulate. Now, sir, it is doing no more to prepare the way to submit it to the people, and to prepare an absolute and certain method by which it shall be presented in every county and in every precinct, than in my humble judgment, it ought to do. You have provided here that the governor, the secretary of state, attorney general, and so on, shall act. Suppose they do not act. Then what are you going to do about it? This convention is without power to make them act; this convention is without power to make any man act. If they should act, well and good, if the officers as now constituted throughout the territory, the county commissioners, clerks, and judges of election—if, in other words, the entire machinery of the territory can be placed in operation and these men will all act, very well and good. The minority report does not interfere with them, but on the contrary it provides that they shall meet at their several voting places, and that these regular officers shall make their returns through their regular channels, and that in all respects this constitution shall be submitted, and voted upon as is now provided in the laws of Idaho Territory, and that the officers in Idaho Territory, acting under the present laws, shall count the ballots and return them to the executive offices here. This provision here, then, with reference to the

election of a state committee of this convention, and the appointment of this state committee—all the complete machinery throughout the state, for the purpose of carrying the wishes of the people into effect—is nothing more and nothing less than a preparation for an emergency; and in the event, therefore, of the failure of the officers of the state to carry out the wishes of the people, or to carry out the wishes of this convention, if you please, in submitting the result of their labors to the people, then this convention has itself provided for it, and that is all there is of it. It is urged that we have no law for this, and I admit it. But, sir, we are here without law, for that matter; it is merely the wish of the people. We have taken no step here except that which has been taken by the co-operation of the people of their own free will. And I undertake to say now, and probably it will not be contradicted, that we can take no step, that no step that can be taken, will be considered a lawful step in carrying the work of this convention into effect until congress by its act admits us into the Union under this constitution; and then every step we have taken is by that act of congress declared legal from the beginning. This minority report, Mr. President, does not provide for calling the legislature together for the purpose of submitting it to the people. Upon the necessity of that question, even the members composing the minority of this committee are not agreed. I, for one, did not think it was necessary to call the legislature together, because I do not think the legislature has any power to act. If it be true that the legislature has power to act in the premises, well and good; let them be called together; I have not the slightest objection in the world, nor have I any objections to their being called together to formulate any laws which the members of this convention will desire to lay out for them in requesting the governor to convene the legislature in extra session. But we do not provide for it in this report for the simple reason that we do not believe the legislature in relation to this

movement has any more power than this convention itself, because we do not think that power has been delegated to the legislature in the organic act. Our work, in other words, Mr. President, comes under the right of petition, the struggle for which in congress is so well known doubtless to every member of this convention. We draw this constitution and submit it to the people. If they ratify it, we present it to congress and ask to be admitted into the Union under its provisions. I think it has been practically decided again and again that any territory has a perfect right to do this, and that in doing so they are simply exercising the right of petition; and that I believe is all there is upon that point. We are not without precedent in this matter, and while I shall not go into any lengthy discussion, I desire to call attention to one or two states that have taken the course laid out by the minority report and been admitted into the Union. I will first call attention to the state of Michigan. This is Paine on Elections,¹ page 257. "The state of Michigan was admitted without an enabling act. The state constitution was adopted on the 24th day of June, 1835. The sixth section of the schedule contained the following provision: 'The first election of governor, lieutenant-governor, members of the state legislature and a representative of congress of the United States, shall be held on the first Monday of October next, and on the succeeding day.' The representative was elected at the time so designated. On the 15th day of June, 1836"—Now, Mr. President, you will please bear in mind that is only two days in excess of one year after the election—"On the 15th day of June, 1836, an act of congress was approved, by the president, providing for the admission of the state of Michigan to the Union, upon her assent to certain conditions as to boundaries. The third section of the act contains these words: 'And the senators and representatives, who have been elected by the said state, as its representatives in the congress of the United States,

¹—Foot-note to p. 257, edition of 1888.

shall be entitled to take their seats in the senate and house of representatives without further delay. Upon the assent of the state to the conditions prescribed, a final act of admission was passed on the 26th of January, 1837; and on the same day the representative who had been chosen on the first Monday and succeeding day in October, 1835, took his seat in congress, as did also the senators who had been chosen on the tenth day of November, 1835, more than a year before Michigan became a state, and more than a year before the regulation by the state legislature, of the time, place and manner for election was possible under the constitution."

Now, I will call attention to one more state. ¹"The original constitution of the state of California was, without any enabling act, framed on the 13th day of November, 1849. The eighth section of the schedule contained these words: 'At the general election aforesaid, namely, the thirteenth day of November next, there shall be elected a governor, lieutenant-governor, members of the legislature, and also two members of congress.' On the 9th day of September, 1850, the state was admitted, and the representatives took their seats." Thirteen states of the Union have been admitted into congress without enabling acts since the organization of the Union; but I do not care to go into history or details in connection with the admission of those states. It would take too much time, and the fact itself is sufficient. I will, however, call attention to one point. It is stated and urged that these states, which have been admitted without enabling acts, have the advantage over Idaho in one respect, that they were a part either of the Louisiana Purchase, or of other territories ceded from other states, which under treaty stipulations and acts of congress were authorized to be admitted, and become states when they had a certain number of people. And that Idaho, not being a part of that purchase, or not having been obtained by the government

¹—Paine on Elections, (1888) foot-note, p. 258.

under either of those conditions, could not ask for admission into the Union under the same circumstances. Well, it is a fact that Michigan was not a part of the Louisiana Purchase, and that it was territory obtained by congress; nevertheless Michigan was admitted into the Union without an enabling act, and her senators and representatives took their seats in congress after congress had ratified the act of the people of Michigan, just as this minority report contemplates; and if I am not mistaken, Idaho was a portion of the territory of Michigan at one time. Now, Mr. President, there is another, and to me a very important, reason; and that is the principal reason why these state officers should be elected this fall. It is quite probable that this discussion would really not come down to the question involved in caucus at all, unless somebody should force it right to the real question in issue here. That I propose to do. I entertain very serious doubts, Mr. President, whether or not, if no election be held this fall, a sufficient number of votes can be obtained to secure our admission into the Union. That is to say, I doubt whether the showing will be such as to entitle us to admission. I submit that we cannot hope to be admitted into congress unless we can make a showing, and a reasonable showing, that we have twenty or thirty thousand votes; and I say that we must show furthermore that a majority of the people have ratified this constitution. I think, therefore, it would be necessary for us to poll—and I believe the gentlemen of the convention will agree with me on that proposition,—whether or not they agree with me upon the proposition that they can easily be got to the polls—that it would be necessary for us to poll at least twelve thousand to thirteen thousand votes for the constitution in order that we may satisfy congress that we have enough people in Idaho to entitle us to admission, and that a majority of the people have ratified and accepted this constitution. I beg to call attention of the convention to the fact that Idaho today is not in a condition to be very easily enthused. The

state or the territory, I think it but fair to say, is despondent. In the Wood River country, which is one of the fairest and richest portions of our territory, the people are suffering under very heavy afflictions. One of their principal cities has been almost totally destroyed by fire, while fires have been raging through the entire section of country; and judging from what a gentleman of that section told us in this convention, the people are well nigh discouraged anyway. I do not believe, Mr. President, that under ordinary circumstances they will have enough interest in the matter to come to the polls in large numbers. In northern Idaho, through the agricultural sections of the territory, the season has been such that the farmers are more or less despondent. In Idaho County they are suffering from lack of rain. That is true through the other northern counties to a greater or less extent, and those people naturally are not very enthusiastic under the circumstances. And then your own section of country, Mr. President, the people are suffering from the rulings of the Department on the lead question, suffering from high freights, and before that country will be one-tenth of what it ought to be, and what it is, they must have cheap transportation and a proper interpretation of the law upon that question. I think perhaps in Shoshone county, in the towns of the county, and in the towns throughout northern Idaho generally, this constitution would receive a generous vote. But that you can reach the back precincts in any of those counties without expending a large amount of money, and a great deal of enthusiasm, I do not believe. I believe sir, that the people of this territory should be aroused fully and entirely upon this question. I believe that the fires of statehood should be burning upon every mountain peak in Idaho. I believe the bugle should call the people from every gulch, from every canyon, from every plain; and I do not believe it will be possible to arouse this enthusiasm on simply submitting to them an instrument in writing, and asking them to take it

and vote upon it. My humble judgment is that they will not take sufficient interest in it, even though they be interested, to come to the polls. I think furthermore, Mr. President, that the very fact that they could participate in the election of their state officers would greatly increase their interest. Why, there is many an old man in this territory would walk twenty-five miles to vote for governor, even though he knew he would never take his seat. I believe that is a fact, and I believe that is the spirit of the entire people of the territory. And what does it amount to? It is said if we go democratic, the territory will not be admitted into the Union. Well, if that is true, the reverse proposition is true, that unless we go republican, we will not be admitted into the Union. Suppose that be true, I want to ask any man on this floor, who is here today in the interest of statehood, what it amounts to. Suppose you elect a delegate in congress this coming fall, or a representative in congress; what does it amount to? He is a beggar from one committee room to another, from one congressman to another, from one senator to another, for a year; and if he is fortunate enough to secure, together with those with him, our admission into the Union, he cannot possibly hope to secure it before his time expires. What does it amount to then, and what is the question of whether it be a republican or a democrat who does that work at Washington? What does it amount to in comparison with having a market for our mines, in dispensing with the alien form of government for Idaho, in having a man in Washington to work for irrigation and the improvement of Idaho generally? What does it signify whether the man who is chosen shall be a republican or a democrat? I say, if I were a republican today, as I am, and we had a democratic president and a democratic congress, and I thought the admission of this state into the Union depended upon placing a man there to advocate it, who was in harmony with that administration, I would not hesitate one moment as to how I would vote on that proposition, if,

understand me, statehood was the important consideration. If it is a matter of who holds the offices here, it is not of much account anyway which wins. Now, my honest judgment is, and this minority report is based upon the proposition, that our time for admittance into the Union is now. I do not expect to fool anybody on this proposition; and I do not expect to fool anybody in this convention on this proposition; and I hope this convention does not expect that it will fool the people of Idaho as to its motive either in rejecting or adopting this proposition. I say that politics does enter into the admission of a territory into the Union; it always has, and it has kept territories out of this Union when they have been entitled for five years to seats upon the floor of congress, and to the rights of all the laws and benefits arising from being a member of the Union. There is not a man upon this floor who is not aware of the fact, that it has been, that it is today, and in all probability it will be, a political question more or less. Now, sir, there is no man here who will for a moment pretend to say that, if congress says it will admit no more states unless they have a sufficient number of people under the law for admittance into the Union, and a sufficient amount of wealth, no man here would pretend to say that Idaho would be entitled to admission into the Union. It requires 152,000 people, or thereabouts, to constitute a congressional district. That being true, we would not, as a matter of course be entitled to admission on that basis, and certainly our assessment rolls are not such as to commend themselves to congress very heartily. If it be true that there is any advantage in presenting ourselves to a congress that would be in sympathy with a political party, there probably will never be a better time to take advantage of the situation than today. Supposing, Mr. Chairman, that there be something in this theory—and I know there is something in it, and it is admitted by the gentlemen who have been caucusing upon this matter, that there is something in it—because it is said that if we go democratic the republicans will

not admit us; therefore I will concede that position is correct, and that there is something in it. Now, supposing we fool along with this matter, and receive next year an enabling act, and then go before congress in precisely the same fix we are in now, and that we spend our time fooling along in this manner until we have a democratic house and a republican senate, then I want to ask you in all seriousness, when are we liable to be admitted into the Union. I am aware of the fact, and I am frank to admit it, that so far as the offices of a political contest are concerned for the coming fall, that if it were a question of offices we would be asking the democratic party to submit to what in my judgment would be an unfair proposition. In other words, I believe the republican party would go before the people of this territory with this prestige, that they could say to the voters of the territory, "If you do not sustain us the republican party will not admit you into the Union." I am frank to say that to that extent it is not treating, as a political question, one of the political parties of this territory with fairness. And therefore, if the admission into the Union be a question of whether or not one political party or the other shall be benefitted, then, Mr. President, I am ready to admit that we should not have an election until after congress has acted upon this matter, or until after we have submitted this constitution to congress. But if it be a question of admission into the Union, then I am in favor of going there ready to seat our man; and I believe it will add tenfold to our strength. I beg to call the attention of the convention to the fact that on September 3rd the constitutional convention of New Mexico will be in session; that the convention of Wyoming will be in session; and that it is contemplated by those two territories to go to Washington equipped for statehood, and ask for their seats upon the floors of congress. Now, sir, expecting and conceding that New Mexico will go there as a democratic state, it is expected and understood that Wyoming will go there as a republican state. Now, Idaho today is

ahead of Wyoming in wealth and population, and she stands at the head of the calendar in congress upon the matter of admission. Suppose congress decides to compromise this matter, (and that is the only place where any compromise can be entered into) I submit in all candor to the members of this convention, whether it is not better that Idaho be there ready to accept a compromise, in the event they should decide to admit one democratic territory, and one republican territory. I ask in all candor if it is not probable, if Idaho is not there equipped for statehood, ready to take a seat in the halls of congress, and Wyoming is, and that combination should be entered into, whether or not it is not probable that Idaho would be left, and Wyoming admitted. I desire to call attention to a remark made by Mr. Cox yesterday in Portland as to the objection that would be made probably by the next congress. They were discussing what congress will probably do after the admission of these new states, whether they will increase the ratio for each member, or whether they will enlarge the house of representatives, or what they will do. This question was asked Mr. Cox: "To accommodate this increase from the west will it be necessary to increase the size of the house?" The answer to the question is as follows: "That question has been discussed a great deal. I take the ground that the house is too large. Owing to the fact that the western states want to show their full strength, it is quite probable that the ratio will be kept at 200,000 population for each member, which would give us 350 members. Congress fixes the number of its members every ten years. The whole population is divided by the number agreed upon, and the quotient is the ratio for one member. But there is a fraction over, and the states having the largest fractions get an additional member until the whole number of members agreed upon is exhausted."

Now, Mr. President, suppose we delay this matter until there be a new apportionment; and it is understood and known that the census will be taken in 1890. If

we are not admitted into the Union before 200,000 people are required for admission into the Union, I ask if in all probability it will not delay us from five to ten years?

Now, I want to ask another question. What hurt is an election going to do? What harm can it cause? I don't think it will be denied but that it will interest the people; I don't think it will be denied but that it will call the people forth and interest them in it, because it will send every candidate over the state canvassing for the constitution. Political parties will be in harmony, possibly, both democrats and republicans, whose duty it will be to press the constitution, and they will have their speakers in every precinct and school house in Idaho; and it seems to me it cannot be gainsaid that it will call out three votes to one for this constitution or against it. It will call forth an expression, and I don't believe there is any other way to call that expression forth.

Now, Mr. President, I am aware of the fact that I am consuming considerable time, and I see that members are perhaps getting a little impatient. I will only say one or two words more. In discussing a matter of this kind it ought to be discussed with perfect frankness, and the real fact that governs and controls every man in his vote should be fairly and honestly stated. Now, sir, suppose Washington Territory should fail to adopt its constitution (and it looks very probable over there now, the people are very much dissatisfied); if we are ready, does it not assist us in the matter of obtaining admission? If Washington fails, and we go there to be another state, ready for admission, does it not help us? I think every member must concede that it will. It is urged perhaps by some members of the convention—I have heard it in private conversation—that there will be numerous candidates for office, that some will be disappointed, and those who are disappointed will take the field against the constitution. Well, if that is true, there will be some men who will be nominated, and they

will take the field for the constitution, and in all probability will have as much enthusiasm for it as the men who are defeated will have against it; but so far as that question is concerned, it amounts absolutely to nothing. In my honest judgment, if the people of this territory desire statehood, it matters not what man or combination of men attempt to place themselves in the path of the people. I believe, sir, that any man, or any combination of men that could place themselves in the pathway of this movement and attempt to obstruct the vote of the people would be swept out of existence as if by a whirlwind, because if the people want statehood, what do they care for the disappointments and combinations of politicians? I don't think that question in itself amounts to anything, or cuts any figure so far as the people are concerned.

Now, Mr. President, as the election is merely for the purpose, and for the sole purpose, of interesting the people more fully in the constitution and in its adoption, and as I believe it is the only way you can interest them, as I believe it is the only way in which you can get out enough people to vote down the Mormons and still show a majority of loyal people for the constitution, it seems to me it ought to be adopted, and that the little petty political differences that may arise, or may have arisen, should be buried deep in the one great work to admit us to statehood. I have no criticism to make on parties, or party caucuses. It is the right of any number of men to meet and discuss this question, and decide for themselves, if they want to, how they shall vote as a unit. I do not think it was exactly fair to render that decision before gentlemen knew what the reports were, but I will not even criticise that. It was also the right of any man to say that he would not go into any caucus, and that he would decide the question for himself. I have for neither class of these men any criticism whatever. If these men as a matter of duty thought they ought to caucus upon this matter and decide it that way, well and good; the caucus was held, it was so decided, and

let it go. If some republicans decided to caucus together, well and good. If some democrats and some republicans decided to remain independent and free from any caucus, well and good. It is the right of every man to act as he sees fit. But, sir, as in my honest judgment, statehood for Idaho depends upon our going there fully armed and fully equipped to demand our rights then and there and instantly, I believe it to be in the interest of statehood to elect this ticket now, and therefore I am here to advocate it, conceding the right to every man to take his view, and advocate his view in the same way. I say, sir, that I believe every man on this floor is desirous of statehood; I believe every man on this floor loves his country, and loves his state, and that it is only a question with him as to which is the best method to obtain the ratification of the people, and a strong showing of voting strength. Why, sir, over yonder is a trifling bit of flag that cost twenty-five cents, perhaps, and its intrinsic value is nothing, yet I doubt not, there is not a man upon this floor, either democrat or republican, who would rather die than to see any man or power trample it with contempt beneath his feet. (Great applause); So long, sir, as that is the sentiment of the convention, of both democrats and republicans, I have no criticism upon your course in this matter. All I do ask is, that as men, as citizens of Idaho, as men loving your state and your country, you will not allow your backs to smart and bleed and burn by the whip of party caucus, but that you walk in here like men, consider this proposition fairly, consider what is in the best interests of statehood, consider what will quickest enable you to open your mines to the markets of the world, to flood your plains with water, and to walk into the sovereignty of sovereign states. (Great applause.)

Mr. BEATTY. I would like to ask the gentleman a question before he takes his seat. I understand Mr. Sweet to take the position that the legislature could not meet and authorize a legal election. I desire to know before he leaves the floor what his proposition or plan

is by which we will have an election that will be legal, and none but legal voters shall vote for or against this constitution, or for such officers as may be nominated. That is a question of very much interest to me.

Mr. SWEET. If the convention desires to listen to an explanation of that sort, I am ready to give it. I stated that in my humble judgment it is not within the power of the legislature to enact any law upon this proposition. I do not know what the view of the convention might be upon that matter, and I presume perhaps the lawyers in this convention may differ, but that is my view of it. I think, therefore, that if we submit the constitution itself to a vote, it will be submitted without any authority of law. It is simply by the cooperation and consent of the people of this state. I say therefore, that when you vote on the constitution, you are voting on it without authority of law. You say that the laws governing the general elections in this territory shall be the law under which this election is held.

Mr. BEATTY. Do you mean that everybody shall vote?

Mr. SWEET. No sir, I propose in this minority report that an executive committee should be chosen. Now, I understand there is no difficulty, and probably will be none, except down here in the Mormon counties. I expect those men will be prevented from this election just as they were prevented from the last; that if any man there fails to do it, there is a committee appointed to carry out and execute the will of this convention, who will see to it that the judges, clerks and registrars are appointed, and they will not permit Mormons to register or vote; that they will do just as Mr. Standrod and Lewis and other men did down in those counties last fall; that when those men attempt to register and vote they will not permit them to do it there.

Mr. BEATTY. By what authority will you prevent them from voting? By what law or authority, either for the constitution or for the officers nominated?

Mr. SWEET. By the same law and the same right by which old Ethan Allen demanded the surrender of Ticonderoga; that is, in the name of the Great Jehovah and the Constitution of the State of Idaho. (Great laughter and applause.)

Mr. REID. Mr. President, I have listened with a great deal of interest to the argument of my friend from Latah, and I am glad he has placed this discussion on a high plane where it properly belongs. I listened to hear some argument, some good reason, why we should hold the election for state officers and members of the legislature, and judiciary officers at the same time we submit the question of the adoption of the constitution we have framed to the voters of the people; and his argument has but convinced me that that proposition is not one that should be entertained by this convention at this time. I do not think it necessary for the gentleman to warn members of this convention against any threats that have been made, either about their pay or anything else of that kind. I have found them high-toned, honorable, patriotic men, those we have today in this convention, acting solely for the interest of Idaho, and in many instances at great personal sacrifice. We are not here, gentlemen, at the conclusion of our labors to act solely in the interest of partisanship in this matter. We have divided some on party questions; we could not help it; we are men and partisans, and I respect the man who is a partisan. But we have a question now that does not go to that at all, and therefore parties have not consolidated on it. Men are acting here because they believe that our work will not be consummated, that the edifice will not be established, and we achieve the end we have in view, if we go a step beyond the original purpose and intent of this movement. All this appeal to partisanship, all this talk about threats, goes for nothing. The fifty-nine or sixty men assembled here act from their own patriotic impulses and dictates of conscience and judgment; and that is the way we propose to act, and if any gentleman is convinced here

that his vote as he intended it at first would be wrong, I take it he will change it. But as to this talk about forming our opinions before the reports of the committee come in, that is begging the question. This matter has not been kept in a corner. There is but one question in it: whether we shall elect state officers or not. That question has been talked about, men formed their opinions about it, it was right they should; and then when the matter comes before the convention after hearing the argument on both sides, they can vote intelligently. The first objection I shall urge to the election of state officers is, that it is against the original intents and purposes for which this movement was set on foot, and I purpose to stand myself by the facts. On December 10th, 1888, our delegate in congress introduced a bill providing for an enabling act for this territory to come into the Union. In it he provided that there should be a call for a constitutional convention and many other liberal provisions, very liberal indeed to Idaho, more so than was possible to get through the committee, and more liberal than any other delegate we ever sent there, but he was looking after our interests, as I have found he always has been. On the 13th of December Mr. Mitchell introduced another bill into the senate, and it was reported back favorably by Mr. Platt, and it provided then for an enabling act, so to speak, and in both of those bills our delegate provided this election for delegates to a constitutional convention should be held in November 1889;¹ and also the other one, Mr. Platt, reported back favorably from the committee in the senate, by which the convention was to be held in September 1889.² Why? Because as it was then published in the paper and so announced from Washington—gentlemen are familiar with it, it needs no appeal to the fact—we were not then in a condition to come into the Union. We did not have the requisites, the resources, the population, and all the prerequisites gen-

¹—Sec. 3, Mitchell Bill.

²—Sec. 3, Platt Amendment.

erally required for the admission of a state into the Union; but the progress of the territory, and the increase in these respects by the time this enabling act went into effect, to-wit, the last of the year, we would be in a condition, and congress would admit us full-fledged. That matter went on in that way until January, and I had the honor then to introduce the first resolutions in a meeting at Lewiston, in a country that had been favorable to annexation (they wanted to sever the territory) and we there introduced resolutions favoring the steps that had been taken by our delegate and those senators to give us this enabling act. No one there in that joint discussion argued that we were then ripe for statehood, but that we were setting on foot steps which would finally consummate it. That was in January. In March a telegram came out through the papers over the signature of our delegate that if we would form a constitution we would not have to wait that long. The conclusion of it is, after stating that the gentlemen who were then visiting in Washington, representing the Territory of Idaho, and looking after our interests as they have done, were here, and after consultation with the authorities there, we could be admitted; and that winds up in this way: "The only obstacle in the way of the admission of Idaho into the Union is the forming of the state constitution, which her people will undoubtedly provide during the next few months." That was in March. That was the only obstacle; that is what they reported after consultation, and after seeing the senators and representatives. What then? Upon the heels of that came a proclamation issued by our executive; to do what? To meet and form a constitution. And then do what? Submit it to the people for ratification. Not one word, not one line went to your constituents, gentlemen, that you were going to have any election for state officers or any other sort of officers. But you came here for a single purpose, to frame a constitution, and after you framed it it was then to be left to your constituents to say whether they approved

it, and upon that hinged the result. That was the only obstacle, the authorities said, who were in power and in position to know, and who inaugurated this movement for our admission into the Union. Right on top of that our first governor, Governor Stevenson, promulgated this proclamation and said, In pursuance of a proclamation, etc. Then what? The two executive committees met and pledged the support of their respective parties to the objects contemplated therein—that is, in the proclamations. So we are here for those purposes, acting together after gentlemen have consulted and found out what they want; our governor took that course; our parties also approved this course, and we are here now simply and solely for the purpose of forming this constitution and submitting it to the people. That is the work we were sent here to do. I take it that if the people had known that we were going to submit to them the question of election of officers there might have been another phase to it. We are interfering with the vested rights of the people who hold the present offices. If we facilitate this matter and set in motion this state government policy, we will deprive every man who is in office now in state and county governments of his position, because elections for county officers will quickly follow. And it is not contemplated, I take it, by any gentleman—I know it is farthest from my mind, to disturb any man who has accepted his contract; no matter if it will hasten statehood, we can exist under present conditions, and at least allow him to serve his entire term. Now, I take it further, that we do not need these officers. We have a full set of officials, and by the schedule we adopt we can go right on from one to the other; we do not need the legislature. It is not provided for county officers, and above and beyond all that, as admitted by the gentleman, there is no authority of law for it. Suppose you have an election for officers. First of all the question will come up, if you cannot have a legal election, how will you submit this question of the constitution to the people? As the gentleman

rightly stated, we did not go quite far enough in this report, and show how this election for the constitution should be held; but I have had friend Ainslie to prepare an amendment of eight or ten lines, which will cure it all, that this election for the constitution shall be held just like an election for delegate to congress, and the returns made in the same way. How will you keep a man from voting? I will state how we proposed in this committee, drafting a memorial. We are going to appeal to the people to have these commissioners to appoint registrars and have poll-lists as they do in an ordinary election, and ask them to pick the best men in the community, republicans and democrats, to hold those elections and conduct them in every respect just as you do the ordinary elections. And if a man comes up to vote, and his vote is challenged, treating him the same way the law does, and if he insists on voting they do not permit him to vote. Then make your returns.

Now, the gentleman says you want to get the people out, and in the same breath he says that if the people want statehood, no man can keep them down. I say if they are anxious enough for statehood, no man can keep them from the polls, and they will come out and vote for this constitution, especially if the gentlemen that have made it go back home, and on the stump and in the newspapers take it up and urge our people to come out, and show them the advantages to be derived from statehood. But if they do not take interest enough in it to vote for it, they don't want it, and I don't want either them to have it or any other man here.

Now, if you look to the state officers, what is provided? A returning board composed—just notice in that bill—an executive or returning board composed of men to be elected by this convention. They are to be here in session. They are to appoint subreturning boards in each county. It would take a man all summer to attend to that, the balance of the fall. Appoint gentlemen who are competent to do this, that have the time to spare, and just pay them. And furthermore,

hold your election under this. Won't there be contests? Certainly there will; there always are. Contests at the last election. Who is to decide them? Suppose you decide it and the contestant appeals, and it is decided wrong? Where is your judiciary power to which he can appeal? Suppose he is wronged in his rights and knows it. Suppose in appointing these different boards, men are put on them who do wrong. Where is the voter to have redress, the wrong remedied? He cannot appeal to the law because it is illegal, and therefore you leave the title of state officers and members of the state legislature who are to elect United States senators, and the title of your judges and district attorneys, all affected by illegality and fraud, and in many cases the men who are affected by it have no legal redress. That is the predicament you will be in. And who is to remedy it or right it? Well, the same thing about the constitution. Let us look at that. Nobody's personal rights are interested, and no man is likely to change any vote for the constitution, as only the rights and interests of people generally are at stake. It all depends on the contributitional machinery, on taking up a collection to defray the expenses. And that is not all. This election he provides for, he says the legislature will pay for. What then? You will have an election for state officers that your legislature has to pay in the future, that will cost you ten or fifteen thousand dollars; whereas, if you want a law of congress to provide for it in an enabling act, it will defray all the expenses, and it won't cost you one cent to elect your officers. And that is one reason I am opposed to it. It was never contemplated for us to do this thing, we cannot do it under the law, and we have no money to spare for it. And the great trouble you will have when you get before the people is the increased cost of state government.

What further? The gentleman speaks on the grounds that congress will admit us into the Union and that it will be on political grounds. Now, I hap-

pened to be a member of the forty-eighth and forty-ninth congress when North Dakota and South Dakota, Montana and Washington were knocking at the door of congress for admission; I heard those discussions in committee and on the floor, and there were political reasons which influenced them, as there always are; and the gentleman says that if the house is democratic and the senate is republican we won't go in. Yet, this very last congress admitted four states when that state of affairs prevailed there, the house was democratic and the senate was republican. They do bring political questions into it, and that is the very reason I don't want to have an election, because it will retard our getting into the Union; and I will give my reasons for it. There is no gentleman—I appeal to the president, or any other gentleman here—wise enough to say how this territory will go on the preliminary vote of its legal voters; you can't tell. You gentlemen have been making your apportionments and getting your political advantages, as you ought to do, I do not object to that; but you that have been figuring it up for political effect, cannot tell how this territory will go. Then you go there in doubt. Suppose you have your election, and it goes republican. But the gentleman says they are admitted for political effect. There is only one or two majority of republicans in the house, and they will say, "we won't admit it, we don't want two more republicans in the senate, and another republican vote in the house to increase your majority." Suppose it is democratic. Well, it is a republican administration, we don't want two more in the senate, and it is doubtful. What then? We will come right down to the merits of the case, on which states are admitted in fact. How has that been? Why has congress admitted states? I undertake to say there have been four reasons that have always governed it, as you, Mr. President, and my friend on the left here, Mr. Ainslie, are well aware. First, that the state shall have a suitable area; second, a sufficient population to entitle them to representation; third, that it shall

have sufficient resources to maintain a state government; and fourth, that its institutions shall not be repugnant to the constitution of the United States. That is the rule, repeatedly stated in the senate of the United States. Mr. Dolph in his great speech last summer for the admission of Washington territory laid that down and enlarged upon it.

Now, do we do that? All this about whether you elect officers will not be inquired into by the committee. The house is so equally balanced it will come to the question of merit. Now, do we possess it? Let us see what it has been before. What is our population now? In 1880 the population of this territory by the census was 32,610 people, with a vote of 7,223, a ratio of one voter to a population of four and a half, much larger than is generally supposed. In 1888 the vote was 16,665, and it has been estimated that at least 2,500 Mormons did not vote, and it is known that ten per cent at least of the voters—I put it at that, but I believe it will average fifteen or twenty—stayed away from the polls. Now, if the average of four and one-half is the same as it was in 1880—and I undertake to say it is greater, because there are more families come in proportion, with our best settlers, and therefore more people in proportion to voters—it would give us, with the ten per cent that stayed away from the polls, nearly 109,000 people in the territory. What has been the rule in congress? Five states have been admitted into the Union with less than 60,000 people. Ten states have been admitted with 50,000 and a little more. Only eight of them had over 100,000 population. That has been the rule. So, we have had twenty-four states admitted into the Union, and only eight of them had the population that Idaho has got today. So we come up to the requisite in that respect. We have over 84,800 square miles. Only four states had a greater area. California, 158,360 square miles; Texas had 265,780 square miles, and Colorado had 103,925. Texas, California and Colorado were the only three states that had

a greater area than Idaho has today. So we have three states in all larger, and twenty-one states less than Idaho is today. Now, have we sufficient resources to maintain a state government? Our assessment roll shows only \$21,000,000 and a fraction of property; but we have in all about \$56,000,000 in property; that is the estimate when it is properly footed up. We had 3,000,000 bushels of wheat raised in this territory, which they say is an arid desert; we had 1,250,000 bushels of oats; we had nearly 400,000 bushels of barley; we had nearly, (not quite) 528,000 tons of hay; we had nearly 200,000 bushels of flax seed; we had about 50,000 bushels of corn; we had \$11,000,000 worth of precious metals taken from the earth. I do not add to that our livestock; you cannot tell what our manufacturing interests amount to. Add to that our great milling interests, and you have \$50,000,000 or \$65,000,000 of property here in Idaho subject to taxation if it was properly assessed. I undertake to say that out of the twenty-five states admitted, not half of them had the property valuation that Idaho has today. So we have sufficient resources to maintain a state government.

Now, are our institutions repugnant to the constitution of the United States? That is the situation; that is the only thing left; We have our population and our resources. Now, we come to the last question, and the only one upon which congress can pause; for we have shown them the other three requisites to our admission. What is it tests this constitution? I undertake to say, taking into consideration the favorable comments that have been made upon it, it is not repugnant to the constitution of the United States, but that it is right in line with it. Some of us may have differed on some questions, but when we go up there, if congress will pass its judgment upon it, that will be the only question to contend with, and it will be admitted, and it does not make any difference whether we elect state officers or not. How was it with Dakota? She sent two United States senators down there in 1886, and two representa-

tives, and they were the butt and ridicule of the whole city, and only yesterday, you notice in the prints this morning, when she is ordered to vote on her constitution, and she has to put off the election of her officers until next fall, but she has already got an enabling act to take her into the Union. Those are the reasons why I oppose this minority report. The gentleman says Michigan went in under those conditions. Well, that was in 1836. Since that time state after state has gone in, and congress never has, except in the case of California, adopted the same rules for the admission of a state. California, as you well understand, was the result of a compromise, a compromise which Mr. Clay brought about. That was the reason she got in. The rule is, submit your constitution. And, as Mr. Sunset Cox, from whom the gentleman read about apportionment, stated to Mr. Hagan (when Mr. Hagan came to this convention he traveled with him from Minneapolis out as far as Spokane Falls, and up in Dakota he was invited into his car, and Mr. Cox is one of the most sensible, practical legislators in that body, and had as much to do with the admission of the states as any other gentleman), "Make you a plain, old-fashioned, sensible constitution, let your people endorse it and send it up, and we will admit you into the Union, and let you go forward and elect your state officers." That is his judgment; that is the judgment of all; all the congressmen will tell you the same thing. What do you want to elect state officers for now—have an election within two or three months? There is no machinery provided for it, with the bid held out to every man to go in and cheat and throw the thing in doubt, and after they have done it, no tribunal to try them for it! You gentlemen that stood here and asked us to surrender conscientious scruples for the right of suffrage to enable you to fence those Mormons out, and we did it and stand by you, how will you keep them from voting? How will you keep the result of your election from being tainted by the fraud of illegal voting? Gentlemen tell me that a

thousand of them voted last fall when you had the law above them, when you had it fenced in with test oaths, and today your courts are full of the prosecutions of illegal voters. How will it be when you have no law to guard the ballot, and it is left open for them to cheat and defraud, aye, in some instances when the ballot itself will be in their charge and under their direction? In taking all the precautions you can, when you come to those counties see to it that only legal votes go in for your constitution, and if they cheat in that respect, we can explain it to congress and tell them it is wrong, but you cannot explain away a man's title to office, and every man knows it. That is why I do it. It makes no difference whether the territory is democratic or republican. I say to you today, if we could have a legal election, I would as soon strip and go into the fight for the democratic party now as at any time. Why? You would have no national election mixed up in it; you would have purely a local affair of it, and the race would be better for the territory because you would not have political issues, but the question would be, who is the best man; and the people always come out better when that is the issue. But when they go to the ballot box and find that men can cheat, that they can go in and do wrong and stuff the ballot box, that their votes cannot be counted properly, they do not want to go into any such election as that. You know it is hard to keep this thing straight and pure when we have all the defenses the law throws around it, and the gentleman admits we cannot do it under the law. And if, to get into the Union, we have to do some revolutionary things, as he styles it—might without law, let us not be any more revolutionary than necessary. Let us do what we came here to do, form our constitution and submit it to the people; then go home and explain it to them, show them the disadvantages of living under territorial government, show them the blessings to come from statehood, show them we can live for \$50,000 less of taxes, and Idaho will be built up, and her resources will be developed,

and above us will be this old flag that the gentleman has told you about, and in which we all glory, and you will have been benefactors to this state and performed a duty. I hope the minority report will be rejected, and the majority report, with such amendments as it needs will be adopted by this convention. (Applause).

Mr. HEYBURN. Mr. President, the gentleman is mistaken if he thinks the first move for statehood in Idaho started with his mass meeting in the town of Lewiston.

Mr. REID. I did not state that.

Mr. HEYBURN. I understood the gentleman to say that the meeting that was held in January in Lewiston was the first open step towards statehood in Idaho.

Mr. REID. I stated, if the gentleman will pardon me, that the first resolution was introduced by our delegate in congress, and following that we had our meetings, and afterwards I stated each step that was taken.

Mr. HEYBURN. I understood the gentleman correctly. I was proceeding to say, and I did say, that he claimed that was the first step taken in Idaho. The introduction of a bill in congress was not a step taken in Idaho. There are a great many people in this territory that have been tired of the vassalage under which we have lived for several years, and who have been agitating and talking this matter months and years before bills were introduced in congress, or before the mass meeting that was held at Lewiston. And when the call went out to the people to send their delegates into this convention, it was a call for statehood; it was a call for them to assemble here and establish a state government, and to do everything and take every step that would accomplish that purpose. Not that they might simply meet here and vote upon a constitution to be submitted to the people and carried to congress, and to ask them whether or not they would be willing to admit us with such an organic law. The purpose for which the people sent us here was to form a state

government, and that means something more than the adoption of a constitution. You are no further advanced toward state government when you have adopted that constitution at the polls this fall than you were before we met here in convention. You have done no act that is binding upon the general government, nor have you advanced one step towards gaining their consent that we become a state. The people cannot vote themselves a state; it requires the consent and the action of congress to make us a state, and it is not very important to consider here what the people will do with this constitution, further than to know whether or not they are liable to reject it. But it is all-important to consider what congress will do with our claims when we present them at their doors; and that is the real subject that should be discussed here in considering the propriety of adopting the minority or majority report in this case. We are not sovereigns to say we *will* become a state; we have the right to petition congress that we *may* become a state; that right is guaranteed us by the fundamental law of the land, and that is all that our action amounts to. And I propose for one that that petition shall go up there a full petition for statehood; not a petition that we may at some future time be allowed to become a state, but that we be admitted then and there, as was said by Mr. Sweet. If it is important, if it is desirable that we become a state at all, it is desirable that we become a state at the very earliest possible day; and we are here to consider by what means we may thus become a state. We are not in a position to sit passively by and see other territories standing before congress with a full-fledged government ready to assume the duties of statehood, and when the question comes up there as to pairing off one against another, New Mexico against Wyoming, the territory that stands there best equipped for statehood is the one that will receive the prize at the hands of congress. When these trades and these combinations that are going to be made in reference to this matter—and I speak of these terms both in

respect to honorable and statesmanlike combinations and trades, because it is perfectly honorable for congress to consider it in that way—when these trades are to be made, if Idaho is simply there with her constitution, without any preparation for state government other than that, and Wyoming stands there with a fully equipped state government, the question is, which is to be admitted as an offset to New Mexico, and you will find your sister state of Wyoming will have outstripped you, and you will remain in territorial vassalage until there comes up another possible combination by which they can offset you against some other state that will be of a different political complexion.

Those are the considerations that are going to actuate congress in this matter, and not the little details of the organic law we may adopt. That organic law is in itself not so very different from others that it will be the cause of or subject to very much criticism. When they have glanced their eye over it, those who are learned in the law will very soon see that there is no departure from the general law that we are not authorized to make, and that will be the end of their scanning of that instrument. They will then turn around to their fellow members and say "What are we going to do with these various applicants for statehood, on political grounds? They are all of them here with constitutions that will be satisfactory to us; any one of their constitutions is within the scope of their power to ordain. What are we going to do with them from a political standpoint?" That will be the question. I have not any fear but what we will be able to take care of the purity of the ballot box at the election provided for by this minority report. It provides that no one shall vote save qualified voters. It authorizes those who are to hold the elections to refuse all other votes than those of qualified voters, and if they receive them then we will not count them, and we are the absolute arbiters of that question, acting through the commission that is proposed to be appointed by this body. No

Mormon power or any other power can compel this canvassing board or board of election to receive illegal votes, and I have confidence enough in this convention's judgment in choosing honest and conscientious men to believe that we can absolutely protect the purity of the ballot box under this arrangement. If we cannot protect it in that way, we can never protect it. If we are not able by reason of the machinery that is given us there to carry out this election, then we will never be able to protect ourselves against illegal voters in this territory or in the state of Idaho; because the safeguards that are thrown around the ballot box by that provision are as stringent and easily enforced as those we have incorporated into the organic law, which we say will be the organic law of the state. So I say we come here to form not only a state constitution but a state government; to lay the foundation for it; to make every necessary provision for forming it, and when we do less than that we have done less than our duty to our constituency who sent us here.

The question of the probabilities of our being admitted has been very thoroughly discussed by the gentlemen who have handled this subject before. I desire to say only in addition to what they have said, that it seems to me, that in the minds of many gentlemen this question has resolved itself down to one of policy, as to whether or not it is better to have statehood anyhow, or whether or not if we have statehood we must vote of a certain political complexion. I for one, am in favor of statehood, whether it be republican or democratic. Statehood first; and I am in favor of doing that thing here, and taking such action as will insure statehood first, and let politics and politicians take care of themselves. I know of no combinations, I know of no combination that it is possible for any gentleman to make. I have too much confidence in the common sense of the people of this territory, and of this state to be, to believe that it is possible for any man to hold them in the hollow of his hand, or by any combina-

tion he may make here to dictate their election, either now or at any election that is going to be held. The people think for themselves and act for themselves, and they have a dislike for combinations; and when they see one of them their first impulse is to crush it out, and it is unsafe and unwise from a political standpoint for a gentleman to rely upon these combinations. We are here for statehood, republican statehood if we can get it; if we cannot get it, then statehood with the right to live and a fighting chance to make it republican; and if we get whipped we will yield to you. To be candid with you, talking among Idahoans, we are not entitled to be seated under any rule that has ever been laid down by congress. We have not sufficient population to entitle us to representation in the house of representatives; we have not the assessed valuation of property equal to the county from which I came. But we are claiming statehood because of the peculiar circumstances that surround these frontier countries. We need statehood, and ought to be entitled to it without being compelled to come up to the standard that has been in force against these states lying to the east of us. I said we were not up to the standard of any state that has been admitted. I will qualify that. When the state of Michigan was admitted she fell farther below the requirements than we do today. Michigan was admitted without any enabling act. She found such adventurers in congress and in the executive departments of the government as James Buchanan. These same questions were raised against Michigan that are being raised against us; the same objections, the same objections as to power had been raised against every state that has gone to the national capital with an organized state government, that it was done without authority of law; and yet congress has one after the others seated the members in the house and the senators in the senate, and recognized those governments, and made legal and lawful that which had no warrant of law when it was done. They will not inquire into those details as to the

manner and method by which we arrived at a conclusion; all they want to know is the primary fact: Have you a government; have you a constitution republican in form, not repugnant to the constitution of the United States; is it the will and wish of your people that you be admitted as a state, and have they selected, by a means that is satisfactory to themselves, their representatives? If they have, congress has no further interest in inquiring into it.

John Quincy Adams in discussing the question of the admission of Arkansas that went there without an enabling act, that elected its state officers and presented them to congress for seats—John Quincy Adams in defending the action of that state said: “We will not inquire into the means by which you have done this, or the process by which you have arrived at this conclusion. We only want to know that it is your desire to become a state, expressed by the voice of your people at the ballot box; that you have the necessary population, and a population that in our judgment entitles you to be seated, and that your state government is republican in form.” That is all they would inquire into. Now, it seems to me that, leaving out of question all of these considerations as to expediency, whether we can get our vote or not, whether our people will go to the ballot boxes or not and vote unless we do have an election for state officers, or whether or not it will make a bit of difference to them whether there is a campaign fund to carry on this election or not, the principal question is what congress will do, not what our people will do. Our people may vote and ratify this constitution by a unanimous vote; it will still be within the power of congress to reject our application for admission. Something was said in the interest of economy. I never knew a political discussion, either in convention or from the political stump that did not have something in it about economy. It has been suggested that in the interest of economy we should not hold this election. Will it not require the same number of election officers, the same machinery,

the same expenses, to hold an election for the ratification of this constitution as will be required for the election of state officers? What difference will it make? It may be said that this canvassing board will incur some additional expense, etc.; but it will be a trifle, and that board should be provided, even in case the election is for the constitution alone.

Mr. BATTEN. In the days of the Roman arena I believe it was customary for the gladiators to salute the emperor with some expression like this: "We, who are about to die, salute you." It seems to me if we do so foolish an act as to adopt this minority report we are placing ourselves in the attitude of those gladiators when they went before the emperor. We go before congress almost admitting, if we adopt this minority report, that we have not any right to be admitted. I am vitally interested in statehood, but it seems to me if we adopt that minority report providing for this election of state officers, we would be doing that which is suicidal of the very purpose which we seek to accomplish. It has been well said by the gentleman from Latah, Mr. Sweet, that the only authority under which we are acting is that broad constitutional authority, the right of petition. Now, we should restrict that right of petition to what we really are endeavoring to accomplish, namely, admission into the Union, and leave all the details of constructing a state government to follow after we are admitted. It seems to me that is the logical, the rational, the sensible method to take; in other words, not to cumber our right of petition, because that is the only warrant and authority for our act, simply the broad constitutional authority to petition congress. Let us restrict what we are doing to that broad constitutional authority, and not cumber it with and make it top-heavy or burdensome by tacking on a long list of state officers. We have already had precedent enough to show that that is bad policy, in the case of Dakota, and Dakota has wisely reconsidered her former action recently by refusing to elect her

state officers and simply submit her constitution to congress, and see if that document meets with the approval of congress; and then, after that is done, and she is authorized by congress to provide for the machinery of state government, she can then do it. It seems to me the whole burden of the argument, so far as I have heard it, narrows itself down to this: Which of the two courses proposed will best conduce to our admission into the Union; which will further our chances for statehood? Now, in considering that question, it seems to me we can leave out of question, we can divorce ourselves from, keep ourselves entirely aloof from, considerations of party; and yet there have been brought into the discussions something that savors strongly of partisanship. It is not something I think that appeals to our partisanship in the least degree; it is simply a question that appeals to our broad patriotism, and in that light I shall consider it a few moments. I desire simply to repeat what has already been so well said by the gentleman from Nez Perce, Mr. Reid, that if we submit this matter, if we provide for the election of state officers at the very time we submit the constitution for adoption or rejection, we drag into the question other considerations, other matters, that will tend to wean away the public mind from the real question submitted to them, namely, the adoption of the constitution; we imperil the chances of the constitution being adopted by mixing up with it considerations of personal ambition, considerations of whether this democrat or this republican shall be elected, and these considerations will enter all the way through, from the nominating conventions clear through the entire turbulent campaign following nominations, up to the very day of the election. It seems to me this is a very serious matter. That matter of itself is enough almost to imperil the chances of the constitution being adopted by the people, because the strife for office, the angry, bitter, partisan warfare will take such prominence in that contest as almost to becloud and obscure and eclipse the real mat-

ter which we are submitting, namely, the adoption or rejection of the constitution. That, it seems to me, is one of the strongest arguments in favor of the majority report. Another matter—and I can only say that the matter is susceptible of only two small arguments on either side—is as to the policy of it; as to the policy of thus electing officers when we submit the constitution. I think it is a ruinous policy. As I said before, I think it is a policy, which is suicidal of the very object we seek to accomplish. Why? Because if we take a hurried glance over the condition of the parties in this country what do we see? In the national house of representatives the parties stand almost nip and tuck. I was reading a statement of how the parties stand, leaving out of account some six or eight contested districts. The house of representatives 164 republicans and 161 democrats. The senate, as you well know, is almost as closely divided. So that if we hold this election, to use a slang expression, and show our hand in either way, we are doing that which is detrimental and jeopardizes our chances, because, forsooth, if the election goes republican then the democrats have power enough by resorting to the usual filibustering tactics and parliamentary skirmishing to thwart our admission and prevent it; and taking the other condition of things, if it goes democratic the republicans can easily, by their slight majority, prevent our admission. So that, bringing the matter down to a simple question of policy, it would be a ruinous policy, I maintain, for us to adopt the plan suggested by this minority report.

I desire now to notice some of the arguments. I merely urge this to the two strong cardinal arguments in favor of the majority report, that we should in brief simply submit the question of the adoption or rejection of this constitution free from and rid of all other considerations entirely; and if we do that we will do a very wise thing, a thing that is fraught with good policy, and to be most conducive to our admission into the Union; whereas, if we do the contrary, we will do

a most foolish and absurd thing, and might as well write ourselves down asses at once. The gentleman from Latah in his argument, or rather in his address, with all due deference to the gentleman, failed to exhibit to me any real strong argument, though I will admit he presented his case very plausibly and charmingly; he has a very persuasive way of presenting a point, which almost compels us to assent to him whether we will or not. But I failed to see, and I ask any gentleman on this floor if he can point to one good strong reason or well considered argument, which that gentleman advanced in favor of his position. He says that several states have been admitted without enabling acts. Now, it is true there have been several states and he seems to think we are in that same category with those states. I maintain we are not; we are differently circumstanced from most of those states that were admitted without enabling acts. For that reason the same considerations which prompted congress to admit them do not operate in our case. Again, he uses the argument that the people need a little enthusing, but he did not undertake to show how his minority report would tend to enthuse the people at all; on the contrary, I think it would tend to the very reverse; I don't think the adopting of his minority report and providing for the election of officers would tend in any way to enthuse the people in favor of our constitution, because candidates will have their friends, there will be disappointments following heated political strife, and so far from enthusing, those who will be enthused will be the successful ones, and the unsuccessful candidates will have very little enthusiasm to bring upon the constitution. They will go back disgruntled and dissatisfied, and have every reason, every inducement to prompt them to do all they possibly can against the constitution. Even if they should not do anything overt, that is, positive and direct antagonism, their very lukewarmness will be almost sufficient to damn the whole thing. Then counsel, notwithstanding he pushed himself upon

such a high and elevated moral plane of pure patriotism, yet he did manage to bring to bear some little politics in the course of his argument. He seemed to think—in fact he admitted—there was a great deal of politics in the whole question. Now, I take issue with him there; I maintain there is no politics, and I ask every gentleman upon the floor of this convention not to be entrapped and led away by any such cry as that. I maintain it is not a question of politics whatever; it is simply a question as to which of these two reports embodies a plan and mode that will be most conducive to our admission into the Union; that will help us along and further our chances. And I maintain, Mr. President, that anyone who will carefully and considerately and calmly consider the two, must admit the majority report is the best one; because it simply leaves the matter where it ought to be, to the question of adoption or rejection of the constitution.

The gentleman from Latah also laid some little emphasis upon the fact that they have provided a very elaborate machinery for putting into effect the whole question of statehood. I maintain they have put up a very elaborate machinery, so elaborate that I defy almost anyone upon the third or fourth reading to understand fully what it means. They have provided a very complex and complicated machinery, where all that is necessary is something simple and direct and easily understood, and I think with the slight amendment proposed by the gentleman from Boise, Mr. Ainslie, that all that is necessary is provided in Section 6 of the majority report. That simply leaves the present law to be the machinery for carrying it into effect. I do not like this machinery; I have glanced over it hurriedly, and heard it read, but it does not commend itself to me at all. I see something in this returning board that savors very much of a little scheme; I dislike to see it; it may not be so, but still this returning board is not surrounded or hedged about by any penalties or punishments for malfeasance in office. It is proposed

to elect them by this convention. There is nothing at all to provide for their proper discharge of their duties; there are no penalties and punishments provided in case they abuse their trust. It is a cumbersome and complicated machinery all the way through; takes up some five or six pages, and has a lot of verbiage we can well dispense with. I maintain the majority report embodies all that is necessary.

These ideas I have thrown out casually; I am well aware it would be more becoming in me to have nothing to say about this matter, inasmuch as the leaders have expressed themselves so thoroughly and cogently on the subject; but I believe we have come to a critical point in this matter, which if we pass safely will be all right and no question about our admission; and for that reason I could not keep my seat, having some few views I desired to express on this matter, and I ask all gentlemen here present to stand by the majority report; it is not in any sense of the word a party report, and I think we will see our way clear to sail into the grand galaxy of states.

Mr. MAYHEW. I desire to detain the convention not to exceed the limits of five minutes. It is not my purpose on this occasion to make an elaborate argument or speech. I am in favor of adopting the majority report for one reason which I think is paramount to all others given and uttered by those opposed to the majority report, or in its favor. I believe it is best for us, Mr. President, to go to the congress of the United States as they demand. The congress of the United States, so far as my limited reading goes, as to the admission of states into this Union, never have inquired what are the political sentiments of the people of the territory asking for admission. The only question so far as the constitution is concerned, and the only thing that the members of congress, both the senate and the house, expect to consider is this—the constitutions of the different territories when they originally frame them and ask for admission into the Union is this: Is

the constitution you have framed, republican in form and not repugnant to the constitution of the United States? That is the only proposition, as I said before, so far as my limited reading and understanding goes, which the congress of the United States has a right to determine, unless they forget their obligations as senators, and members of the house, and go behind that question to inquire into the political sentiments of the state. The two great political parties, let them be as they may in the territory, ask admission into the states. It is not for congress through the senate or house of representatives to say, "You are republican, we will not admit you." That is to say, "You belong to the republican party, and we will not admit you;" or "A majority of your people are democratic, and therefore we will not admit you." The only question I say that congress desires to know is that we form a constitution republican in form. I admit the fact, so far as the argument is concerned, that we have not a sufficient number of inhabitants in this territory to entitle us to a representative in congress. And I admit the further fact, Mr. President, that the assessed valuation of property, so far as the record is concerned, will not strike congress so very favorably. A territory with less than 150,000 inhabitants, and not possessing \$25,000,000 of assessed valuation of property, will not strike congress so strongly as we may imagine. I say if we go before congress without an election of state officers, there is no member of congress and no senator can stop to inquire what is the political complexion of the state of Idaho. If we go there without an election, and with a constitution republican in form, congress will say, "Those people have acted wisely, let them send up a constitution that meets with our approbation, not even mixed up with the political questions of the day. They only ask us to admit the state of Idaho under a republican form of government." Congress will then admit us. There is no representative in congress to make any objection, republican or democrat. Hence, if we go without a

state election, and without these senators, let them be democratic or republican so they cannot object to it, we stand in a better light before congress than we will if we have an election. Therefore, Mr. President, although I have many other reasons, can advance further arguments for the adoption of the majority report, I say for this reason alone, that we go there untrammelled by party lines, without senators, republican or democratic, or a member of the house of representatives, and we will be more apt to be admitted into the Union.

What is the cause of being so anxious to be admitted upon the floor of congress, and into the senate of the United States? Has that anything to do with the framing of this constitution? I think not. Yet, the gentleman who has the honor with myself to represent the same county says we have come here for another purpose besides forming a constitution. We have come here he says to form a state government. That is not the call; that is not the purpose for which the governors of this territory issued their call, and I say again it is not the purpose for which we were sent here from the county of Shoshone. We did not come here, and not a man outside the gentleman himself, even dreamed we were to elect or submit a question as to the election of state officers. If it was, the gentleman is better acquainted with the people of that county than I am as to their political sentiments. I never heard it uttered by a single man, let him be republican or democrat, in the county of Shoshone, that we were going to create a state government, and elect officers. The only purpose before the people there was, as I take it, to frame a constitution for the state of Idaho, and ask for its admission, and not an election of officers. I think an election at this time would be dangerous; for many reasons it would be dangerous, Mr. President, we have no authority, as the gentleman from Latah has well said—that this action is revolutionary. We have no authority from the legislature of this territory for convening, and we have no authority from congress

for convening in this convention, we have no authority from either body, state or territory or United States, for the creation of a constitution. Yet I admit the fact that we may be admitted, and I trust that we shall, and I am in favor of the admission of the territory of Idaho into the Union; and I do not desire, as one of the members of this convention, to have politics mixed up as a part of our admission into the Union. I say it will make no difference to the ambitious gentlemen, either members of this body or citizens of this territory, whether they are made senators and representatives or not this coming year. We will have plenty of time this coming year when congress shall say "You have made a constitution republican in form, and we will admit you under that; we will pass an enabling act, and admit you under that, and authorize you to elect state officers and pay the expenses." We rid our territory of those expenses by so doing, and get into the Union without coming in with any political complication whatever. I am in favor of the adoption of the majority report.

The CHAIR. Gentlemen of the convention, the question is upon the motion to adopt Section 7 of the majority report. Are you ready for the question?

Mr. BEATTY. Mr. President, I ask indulgence of the house more to explain why I shall vote as I shall than for the purpose of making an argument. But, sir, I came here with one object in view. Since I have been here, I have learned incidentally, heard it whispered around, that there are combinations and rings. I want to say for one that if there is anything of that kind, I, for one, have nothing to do with it; I have had but the one object in view from the beginning, and that is to prepare a constitution which shall be submitted to the people, adopted by them, and finally ratified by the congress of the United States. What is the best course to accomplish that end has been my guide in all my actions here, and shall be to the end. Now, I do not know whether I am exactly on top of the fence, or on one side of it; but if I am on one side, I have been

willing all the time to be convinced I am wrong and climb over on the other. I have listened most patiently, sir, to what has been said, and one development has been made here, which is an utter surprise to me, and which more than ever convinces me that the first impression I had as to what was right is still right, and that I will stand by it. It has been conceded here, and I believe by all parties, that we can have no legal election either to submit this constitution to the people or for an election of state officers. That is rather a surprise to me; but I confess that in the midst of other duties I have not taken the time to examine that question. I had supposed, sir, that notwithstanding our action in this convention is not regular, but as has been said by my friend on my right, Mr. Sweet, is revolutionary in its nature—I had supposed that our legislature would have authority to convene and ratify what we had done so far as to submit it to the people, and at least under the forms of law go before the people and have a legal election. But it seems that my impressions upon that question—which I say are mere impressions without any examination—must be erroneous, because no gentleman here has admitted that that can be done. It must be conceded upon all hands that if we have any election for the ratification of this constitution, or the election of state officers, it will be one without the form of law; will be void of law. That is rather appalling to me, that we are going before the people to submit a constitution, and especially to elect state officers without any law or authority for it. Mr. President, I would like to know how we are to prevent anybody from voting; I would like to know how we are to prevent people from being emigrated here from Utah and voting; I would like to know how we can prevent people from Washington territory, and from the uttermost parts of the earth, if needed, from voting. I asked my friend that question; I asked him to point out some mode by which we should have a legal election, for I want none other. Why, his answer

was, "That election should be controlled (as I understood him) by the might of the people of Idaho." In other words, we go out and see that the strongest arms should control this election. Why, sir, do you mean to seal this constitution by a bloody fray? Do you mean that this constitution shall be sealed by the blood of its citizens in a contest over an illegal election? Is that the proposition we go before the people with? Then, if so, I am more than ever opposed to undertaking to hold an election for state officers. When we go before the people to elect state officers or any kind of officers, I want that that election shall be at least legal in form, that we shall have back of us the test oath law; that we shall have back of us the registry law; that we shall have back of us the laws of Idaho territory; but not that we shall go out simply with the law we hold in our own hands, and undertake to enforce that. Why, sir, I can see no end of confusion that will result if we undertake to hold an election that way; and I would like for any gentleman to show me how we can have a peaceable or quiet election which will not lead to confusion, and which will not in the end result in the utter defeat of this constitution. If we go before the people for that kind of an election there will be contests, there will be bloody contests, there will be riots and confusion. If we go with that kind of election to congress, what will they say to us upon this question? Will they undertake to ratify our constitution if we go before them and show that we have had an election which was not agreed upon by the people.

Mr. HEYBURN. Has the gentleman read Section 17 of the minority report?

Mr. BEATTY. I have not, except to follow it in the reading; but I do not care what is in that, because it has already been admitted by my friend and by others that there can be no legal election; and if there cannot be, then you cannot by anything we put in this constitution make a legal election.

Mr. SWEET. I would like to ask the gentleman a question.

Mr. BEATTY. Certainly.

Mr. SWEET. I would like to ask you how you are going to prevent Mormons from overwhelming this constitution, except by virtue of moral force and the strength of the people of Idaho?

Mr. BEATTY. Well, if it is true that the legislature cannot meet and authorize an election, then I answer in the language of the gentleman before, that the only way to prevent Mormons from voting is to do it by physical force.

Mr. SWEET. Then let me ask you this question. If you can by an act of the legislature protect the election for the constitution, can you not by an act of the legislature protect the other election also?

Mr. BEATTY. That is just what I claim, Mr. President. I supposed that this could be done, but it seems to be conceded that it cannot be done. As I said before, I have not critically examined that question. I was laboring under the delusion all the time that such a thing could be done; that the legislature might authorize an election, and there are members here who will bear me out as having spoken to that question, of the governor calling the legislature together by consent of the president of the United States for that very purpose; but, as I said, I have not examined that question. I may be wrong in it. If the gentlemen are right, then we must have an election without form of law. Now, let me show you what the Mormons can do. You say we will go in and by main strength prevent them from voting. What is to prevent the Mormon people going off and establishing ballot boxes of their own and voting and have their election certified up? We have no legal officers to certify our election. Those officers we appoint under this schedule are not legal officers; they are without authority of law.

Mr. SWEET. There is a board appointed under this schedule for the counting and canvassing of the votes of the qualified voters of this territory under this present law. Are they obliged to count those Mormon votes?

Mr. BEATTY. I will answer by asking another question. What authority has this board to count any votes? They are simply acting only by virtue of such authority as we give them, and we can give them no authority.

Mr. SWEET. We cannot submit the constitution by any authority. We have just as much to do that as we have to submit the constitution at all.

Mr. BEATTY. I admit that it seems to be conceded we are going to submit this constitution without any authority. It is a haphazard submission to the people.

Mr. SWEET. I would like to ask——

Mr. HOWE. I call the gentleman to order; there are two gentlemen upon the floor speaking at the same time.

The CHAIR. By consent of the gentleman who is entitled to the floor.

Mr. BEATTY. Yes, I always yield to the pleasure of a question from any gentleman, although I have the misfortune when I talk here that gentlemen ask me questions all around—which is a compliment to me, however.

Mr. SWEET. I will not propose any further questions.

Mr. BEATTY. I yield to the questions of the gentleman; I do not wish him to understand that I have any objections whatever. If it is conceded we have no law for this, we cannot by any process prevent those Mormons from voting; if they do not vote at the polls that the gentiles establish, they will vote at their own; if we do not count their votes they can send them on to Washington and have them counted—or at least send them on as a showing. There is another thing in that connection, Mr. President; I would like to know who are going to be candidates for office under such an election as this. And now I want to ask my friend Mr. Sweet a question. I understood him to say the other day that he was ready for anything in sight; now, I want to know candidly, because I may want the pleasure of voting

for him if he will consent to be a candidate for governor under this haphazard——

Mr. SWEET. You have called on me for the wrong office. Almost any other I would be willing to answer to.

Mr. BEATTY. I have been trying to find what office my friend Sweet wants during this whole convention, for I do want to vote for him, but I am beaten at every point.

Mr. MAYHEW. I understood he said the other day that if he could not get one he would take the other.

Mr. BEATTY. Well, laying all jesting aside, I simply must say, without going over the arguments others have adduced—and I have listened patiently and attentively to all that has been said—if it is conceded that the only election we can have is one of this random nature, and that simply physical force must govern, then I am more utterly opposed than ever to attempting to have any election for state officers. There will be no possible end to the confusion. There could not be a legal election; contest after contest would follow; it would be an election without law, and I would like to know where it would end. Now, I want this constitution to be adopted, but I do not believe it depends upon the number of votes that are cast for it. I believe if this constitution is submitted to the people, and a reasonable number of votes cast for it, that is sufficient for the congress of the United States. I do not believe they are going to ask the question whether a large number of people have voted for it or not; I think that is immaterial, and I think the less of a contest we have in the matter the better it will be for us. Gentlemen have alluded to the question of politics in this; as a matter of course there are politics in it, will be when we get to Washington, after we get there and show them whether we are democratic or republican, and those two houses will be governed accordingly. I do not believe it is even necessary to submit this constitution to the people; I believe our delegate in congress can take this consti-

tution and go there and present it and ask congress to ratify it, and let congress authorize us to vote upon this, and also to carry out the rest of the machinery to create the state government. And I believe sir, that is the proper and only mode to pursue; and I do fear if we undertake to go into an election we will only get into confusion, and never will get this constitution ratified by congress, and will remain out of the Union as a state for years to come. I am willing to take my chances on its admission, let it be republican or democratic. If my democratic friends can capture this state, composed of democratic American citizens, I can live under it; but I do not, as a matter of course, want to go into any state that is governed by this church that rules in the southeast part of this territory. I shall cast my vote in favor of the majority report. I do it for the reasons I have stated. I believe in doing so I contribute that much more towards the ratification of this constitution and our early admission into the union of states. (Applause).

Mr. REID. If there are no other remarks, Mr. President, I ask for a vote on it.

Mr. PARKER. Mr. President, there ought not to be any politics in this question of submitting the constitution of the state of Idaho to the people for ratification. And yet we find that presumably honest men on this floor are in favor of making it a partisan fight for the loaves and fishes of office. As I look at it, the question we have to submit to the people is: Do you want statehood under this constitution? If they say no, that ends it. If they say yes, our majority report provides the machinery for the election of those state officers, which gentlemen on the other side of the political fence are in such a hurry to occupy. Mr. President, I am opposed to injecting into this campaign for statehood any other political side issues than those that will not distract the attention of the people from the principles involved in that constitution. The rights of the people, the rights of us, the rights of our descendants

for generations unborn are involved in that Magna Charta of our liberties, which we are here framing. We have in that document conferred unheard of and extraordinary privileges and powers upon the state legislature, and I will say we ought to give the people time to vote directly and distinctly upon that one proposition, whether they are willing to surrender those rights which we, their representatives, have surrendered from them to the state legislature. I say therefore that we ought to submit this constitution as a separate and distinct proposition to the people with no other political side issues. When we leave this convention and go out among them we will find a great diversity of opinion. We will find some opposed to statehood under any circumstances whatsoever. We will find others who are in favor of statehood, but who do not like certain clauses, which we have incorporated into this Magna Charta. We will find others who think there are not enough people. We will find others who are opposed to statehood on the ground that it will increase taxation. Those diversities of opinion it will be our duty to reconcile. I am not alone, Mr. President, in believing that this constitution contains features that are a crime against the rights of humanity. I believe myself that the remedies prescribed in this constitution for the cure are worse than the disease of Mormonism itself; it is the surrender of our legal rights to the legislature practically forever, in order to escape the alleged probability of Mormon domination in the politics of our state. I want this Magna Charter to be considered by the people on its merits alone. There will be plenty of time to elect our state officers and run the gauntlet of popular votes. It has been conceded on this floor this afternoon that there is no great desire existing for statehood among the rank and file of this territory. And I agree to this extent; and that when this constitution goes out to the people on its merits alone, there will be a light vote cast. These gentlemen realize full well that a great number of our citizens can be

led astray by the glittering generalities statehood holds out to them, and led astray by the ambitions of those who have ambitions to serve. When you go to congress with this unanimous vote, after you have voted for your constitution and your state officers, we shall go there with a lie upon our lips, and with false pretenses and hypocrisy in our hearts, because we shall claim to congress that this vote that was cast for our constitution and state officers was cast for this constitution alone, when we know those votes were called out by the clamor of voting for state officers whereby the partisan and political prejudices of the people were aroused. I am opposed to statehood if we have to tell a lie to congress, or gain statehood by going to congress with hypocrisy in our hearts and falsehoods upon our lips.

This convention, Mr. President, seems to labor under the impression that it is a legislative body. The rights of this generation and of generations unborn are involved in the adoption of this Magna Charta. It is not an ordinary legislative enactment that we are framing here, it is a constitution; and we all know how difficult it is to secure the adoption of it, and once adopted how difficult it is to amend it, modify it, or repeal any obnoxious feature of it. In a land like this, Mr. President, where the blessings of liberty and universal intelligence are so widely diffused, I hold to the opinion that it is not safe to fool the people, or attempt to fool them, and I shall vote for this majority report, because I want this constitution to stand upon its own bottom, and not to solicit votes of the people under false or fraudulent pretenses.

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

Mr. LEWIS. Mr. President, may I speak a word or two? I have heard a good deal about electing officers at the same time that we adopt this constitution. Now, I am from southern Idaho, and the great feature there will be if there will be any bloodshed upon the adoption of the constitution, not upon the officers. Why? Because this is a death-blow to the Mormon church if it is

adopted. And here, and only here, is where the blood will be shed. If we have no law for it, I hope and pray that even the constitution will not be put to a vote there, else I want to emigrate to some other county than a Mormon county, because they will come there by the hundreds and vote for the constitution, and that by force. That is the only fight, I say, there will be in southern Idaho. Not for the officers.

“Question, question.”

Mr. SWEET. As I understand it, a motion for a call of the house when a motion is pending is not in order; am I right?

The CHAIR. That is the ruling of the chair.

Mr. SWEET. Well, I have not studied particularly the technical rules, and I do not wish to delay the convention, and yet I would like to have every member present.

Mr. REID. I will call for the yeas and nays.

Mr. SWEET. I would like to have every member here present.

Mr. REID. So would we. The rule really is to call the roll twice on the yeas and nays.

Mr. MAYHEW. I suggest that we call the roll now and see who is absent.

The CHAIR. The secretary will call the roll for the information of the convention.

Mr. VINEYARD. I understood the gentleman from Boise had an amendment he wanted to offer.

Mr. REID. Yes, but that will come afterwards.

Mr. McCONNELL. I call for the yeas and nays on the adoption of this proposition.

The CHAIR. It is desired by some members present that it be ascertained how many are absent; and by general consent the roll will be called.

The secretary thereupon called the roll for the information of the convention.

Mr. REID. I now move the adoption of Section 7 of the majority report, and demand the yeas and nays. (Seconded).

Mr. SWEET. As a substitute therefor I move the adoption of Section 7 in the minority report.

The CHAIR. The question will recur first upon the substitute, Section 7 of the minority report. As your names are called you will answer yea to adopt, nay to not adopt the substitute.

Roll call:

Yeas: Allen, Armstrong, Campbell, Glidden, Hammell, Hampton, Hasbrouck, Heyburn, Howe, Lewis, Maxey, McConnell, Morgan, Moss, Pinkham, Pyeatt, Robbins, Sinnott, Shoup, Sweet, Wilson—21.

Nays: Ainslie, Anderson, Batten, Beane, Beatty, Bevan, Blake, Cavanah, Chaney, Clark, Coston, Crutcher, Gray, Harkness, Harris, Hays, Hogan, Jewell, King, Kinport, Lamoreaux, Lemp, Mayhew, Melder, Myer, Parker, Pefley, Pierce, Reid, Savidge, Standrod, Steunenberg, Stull, Taylor, Underwood, Vineyard, Whitton, Mr. President—38.

And the substitute is lost.

Mr. REID. I would ask the gentleman in charge of the minority report, would he object to voting on the balance of the report as a whole?

Mr. SWEET. Not at all.

Mr. REID. Then I ask unanimous consent to put the balance of the report on its passage by one vote, and I will move that the remainder of the majority report be adopted without reading. And then we will go back to Section 6 and offer the amendment. I suggest this to save time of voting on each proposition separately.

Mr. GRAY. The only objection I have, I am not in accord with the argument of the gentlemen on the floor here today at all in one respect. That is as to how these votes are to be canvassed. If it is a fact as stated here that there is no power given, why should there not be some machinery provided that is not in that majority report?

SECTION 6.

Mr. REID. The motion is to adopt the majority report and then go back to Section 6, and then Mr. Ainslie has an amendment to offer, that these votes be counted like the votes for the delegate to congress,

which will cure the defect pointed out by the gentleman from Latah, and it will then make the bill perfect and the machinery complete in every respect.

The CHAIR. If there are objections it cannot be done.

Mr. GRAY. I do not object to taking up all of it.

Mr. AINSLIE. I will offer the amendment to Section 6 now.

SECRETARY reads: Amend Section 6 as follows: By inserting in line 3 after "1889" the following: "said election shall be conducted in all respects in the same manner as provided by the laws of the territory for general elections, and the returns thereof shall be made and canvassed in the same manner and by the same authority as provided in cases of such general elections, and abstracts of such returns duly certified shall be transmitted to the board of canvassers now provided by law for canvassing the returns of votes for delegate in congress."

Mr. REID. I ask unanimous consent to consider that amendment now, and I move its adoption. (Seconded).

Vote and carried.

Mr. REID. I now move the adoption of the remainder of the majority report beginning with Section 7, and if it is adopted, if any member desires to go back to it we can take it up then and amend it. I do that to save time.

The CHAIR. Section 7 has already been adopted. It is moved and seconded that the remainder of the majority report beginning with Section 8 be adopted, with the understanding it may be gone back to and perfected in any respect it needs.

Mr. BEATTY. I call attention to the fact—I do not know how Section 7 was adopted; we voted upon the substitute, and that was not carried, and there has been no motion put since.

Mr. REID. I will include Section 7 to save time.

The CHAIR. It is moved and seconded that the remainder of the majority report, beginning with Section 7 be adopted.

Mr. HEYBURN. I call for the yeas and nays.

Mr. MORGAN. I notice on examining this amendment that was submitted by the gentleman from Boise that it does not provide what the canvassing board shall do with these abstracts, but simply states that the abstracts of the votes of the different counties shall be transmitted to the board of canvassers, who canvass the votes for delegate to congress.

Mr. AINSLIE. Well, we have a board of canvassers consisting of the secretary of the territory, the United States marshal and the governor; and they canvass the votes just as they canvass the returns of the votes for the delegate in congress.

Mr. MORGAN. I know that, but the statement I make is that there is no direction for them to do anything with these abstracts, not even to count them and announce the result. If it is not provided in the schedule in any other place, it occurs to me that it ought to be provided for here.

Mr. AINSLIE. It will be necessary only to say how many votes are for the constitution, and how many are against it; and I am not afraid but what the governor will certify the copies to congress. We cannot compel them to do anything.

Mr. MORGAN. If we ask that they will do this, they will undoubtedly do it, but without a request or any direction from the convention, how will they be empowered to act?

The CHAIR. There is one thing strikes my mind, although I have taken no part in this discussion. We are probably rushing this matter a little too fast. It is the sense of the convention not to hold an election this fall, but there is a question raised by Mr. Lewis, and that is whether in the absence of any law that will authorize the governor even to call out the militia or the sheriff to call out a posse, as to whether it is or is

not advisable to ratify or attempt to ratify this constitution by a popular vote at all until congress has seen fit to call that election and give us the safeguards of law. For one, I do not feel like voting on this question today.

Mr. GRAY. If it be in order that we take a little time to think it over, I move that we adjourn until tomorrow morning at nine o'clock.

Cries of "No, no, no."

Mr. REID. I hope if we adjourn now we will assemble tonight. I do not want to rush the matter through. I did it in the interest of saving time, but if any gentleman objects to it, or wants to consider it, I think reasonable time ought to be taken. I take the same view, and have all the time, as the president suggested. It makes no difference about the submission of this constitution to the people. I have always thought when we submitted it there would be disclosed such a small vote it would really damage us at Washington; and I expect to do all I can at that end of the line to help it through, but the committee having unanimously adopted this, I thought it was best to submit it. It is admitted by the gentlemen on the other side that we have no legal power to do this. I think though we can have the board of commissioners, as I stated before, canvass the votes, and that we can hold this election, and we have the power of the county to quell any disturbance, and I think they have a right to meet and exclude men from holding a private election of their own. But if further consideration is needed, I move we take a recess until eight o'clock this evening, with the understanding that we stay in convention until we complete it. This is the last work we have to do except hear the report of the committee on Revision; and if we adjourn now or take a recess I move it be until eight o'clock this evening with the understanding that we dispose of this bill before we adjourn. (Seconded).

Division demanded; rising vote: Yeas 45, nays none.

And the convention went into recess until eight o'clock p. m.

EVENING SESSION.

Convention called to order by the president.

COMPENSATION OF MEMBERS.

Mr. REID. Mr. President, pending the assembling of the members there is a matter I would like to bring before the convention in order that the clerk may have some direction. Some members got in a day or two after the organization and were not sworn in on the first day. The question is whether they shall receive pay from the first day. It is usual in parliamentary bodies, in allowing per diem, that they are paid for the entire session. In order that the clerk may be instructed in the matter I move that the members who got in later than the first day receive pay for the entire session. (Carried).

Mr. REID. I understand the gentleman from Bingham has an amendment to the amendment offered by the gentleman from Boise, which we had better dispose of before we proceed with the bill.

ARTICLE XXI.—SECTION 6.

Mr. MORGAN. I offer the following amendment.

SECRETARY reads: Amend by adding to the amendment of Mr. Ainslie, the following: "The said canvassing board shall canvass the votes so returned and certify and declare the result of said election in the same manner as is required by law for the election of said delegate."

Mr. AINSLIE. I accept the amendment.

Mr. REID. I will accept both amendments to Section 6 for the committee, and I move the adoption of Section 6 with the two amendments.

Mr. HEYBURN. I ask for the reading of the section and the amendments.

SECRETARY reads: Section 6. This constitution shall be submitted for adoption or rejection to a vote of the electors qualified by the laws of this territory to vote at all elections, at an election to be held on the

Tuesday next after the first Monday in November A. D. 1889. At the said election the ballots shall be in the following form:—

Mr. REID. Please read the first and second amendments which come in after the 1889.

SECRETARY continues: —on the Tuesday next after the first Monday in November A. D. 1889. Said election shall be conducted in all respects in the same manner as provided by the laws of the territory for general elections, and the returns thereof shall be made and canvassed in the same manner and by the same authority as provided in cases of such general elections, and abstracts of such returns duly certified shall be transmitted to the board of canvassers now provided by law for canvassing the returns of votes for delegate in congress. The said canvassing board shall canvass the votes so returned, and certify and declare the result of said election in the same manner as is required by law for the election of said delegate. At the said election the ballots shall be in the following form: (and continuing according to the printed bill to the end of the section).

The CHAIR. It is moved and seconded that Section 6 with the amendments incorporated in it be adopted. Are you ready for the question?

“Question, question.”

Mr. SHOUP. I would like to ask the gentleman having this in charge what is to be done in case the commissioners refuse to order an election?

Mr. REID. In that case, as it was agreed upon virtually today, in the committee who draft the memorial to the people, we will request the citizens or the executive committees of the two parties, democratic and republican, in the several counties, to provide the machinery for the election. That was virtually understood today in the committee. In the event the commissioners should refuse to order this election or appoint registrars and polling lists, then we will in our address ask the two parties to see to it that the polls are

opened by proper officers appointed by the two executive committees in each one of the counties in the territory, so that people will have an opportunity to express their dissent or assent to the constitution that we submit to them.

Mr. GRAY. Mr. President, I would ask, had we better not embody it in this bill; that in the event that they do not act—embody just what the gentleman has stated?

Mr. REID. I would state to the gentleman that in our informal conference this morning on the subjects upon which we are to address the people, it was understood that we were going to put that in the address to the people, and I will state to the gentleman that there is here now on foot a call to go to the two central executive committees of both parties in the territory to meet tomorrow or next day here, and provide machinery for the election in case the commissioners would not act.

Mr. GRAY. That was what my point was, on the adjournment, and as I had understood there was a different plan, I did not draw any amendment.

Mr. REID. I think the chairman did right in not embodying it in the report, because it would not be suitable matter to go to congress, but it would be proper matter to address the people on.

Mr. VINEYARD. I would ask the gentleman from Nez Perce, what are you going to do in the event there is no organization of either the democratic or republican party by committees in some of these counties, for instance, in Bear Lake? There is in Bear Lake, I am informed, no organization.

Mr. REID. We will have to depend on those who represent those counties to look after it. As has been said on all sides, this matter is merely voluntary on the part of the people, and we depend on their patriotism and public spirit to provide for that, to get an expression. We have no legal reasons to enforce it, and we think by appealing to the people, if they take enough

interest in it they will provide the machinery. I therefore move the adoption of the section with the amendments.

It is moved and seconded that the section as amended be adopted. Carried.

Mr. REID. If there is no objection, I would move the adoption of the balance of the report; and if there is objection we can read it by sections. If there is no objection I will ask unanimous consent to put the balance of the report of the majority committee on its passage, and move it be adopted.

Mr. HEYBURN. I call for the yeas and nays.

Mr. REID. I have no objection to that. I demand that for it, and ask that it be put upon its final passage.

Mr. CAVANAH. For the whole article?

Mr. REID. Yes.

Mr. CAVANAH. Well, I have an amendment.

Mr. REID. Very well, I move the adoption of the eighth section.

SECTION 8.

Section 8 was read.

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

Mr. HEYBURN. I second the motion.

Mr. SHOUP. If we get an act of congress admitting us, as I stated, that act will provide just what shall be done in regard to holding this election. I think there is no necessity at all for that section.

Mr. GRAY. I will only say this, Mr. President, that we will find that section in every constitution that I have found yet. And supposing they adopt our constitution as it is, they need not put in any provision whatever in the enabling act. That is, if our constitution goes there, as it is proposed by this majority report, we are admitted as a state. Then the machinery is all ready to carry on the business without any enabling act whatever. The constitution itself provides the means by which to carry on this matter. "Immediately upon the

admission of the territory as a state, the governor of the territory, or in case of his absence or failure to act, the secretary of the territory, or in case of his absence or failure to act, the president of this convention, shall issue a proclamation," etc. They may call the legislature together;—"shall issue a proclamation, which shall be published, and a copy thereof mailed to the chairman of the board of county commissioners of each county, calling an election by the people of all state, district, county, township and other officers, created by this constitution." I don't know what better we want. We understand that, and if the constitution passes this passes with it, and we think we have all the machinery we are required to have.

Mr. REID. I would say in addition to what has been said by the gentleman from Ada, that we, ourselves, fix how this election shall be held, and do not leave it to congress to do so. In other words, as the gentleman has stated—and he drew this bill, and it is well drawn, covers all the points and answers an objection I heard in the argument this evening that there ought to be an enabling act; no enabling act is required—if our work meets the approval of congress, all they have to do is to say so, and they have in the instrument itself the necessary machinery. If the governor refuses to act and the secretary of the territory refuses, the president of our convention can call it, and have it without any intervention of congress. The only question will be whether they will accept our work, and we have been assured by the powers that be that if we do this work, and it is not repugnant to the provisions of the constitution of the United States, it will be accepted. Nay, more, three gentlemen who will have a great deal to do with adopting this constitution—our visiting statesman—have assured us in positive terms that they will see that it goes through, and Mr. Cox, a distinguished gentleman of New York has also added his testimony to the effect that we shall be admitted if our work is perfect, if it has been done by master builders, all they will say is,

“well done, good and faithful servants,” and with our own machinery that we have provided we will hold an election. I hope it will not be stricken out.

Mr. SHOUP. This section provides: (Reading the same portion as quoted above.) Now, if we are admitted into the Union in December this election will come in the winter, under the provisions of this section as I understand it. That will practically disfranchise one-half of the voters of this territory, especially the mining class. I think this whole thing should be left to congress to provide for that act.

Mr. GRAY. Amend that as to the time.

Mr. REID. When congress meets on the 4th of December, the first month will be taken up in the discussion of rules as already indicated by Mr. Thomas B. Reed, who will probably be the speaker, from Maine. They will discuss those rules a month, because they are going to amend them so that a minority cannot hinder and prevent legislation. Committees will hardly be appointed before the first of January. Our delegate will achieve one of the greatest exploits possible if he gets this bill enacted before May or June. Yes, it will be an herculean task, and he will be congratulated as the most successful legislator that ever went from west of the Rocky Mountains—I know he will do all he can—but he thinks he can get it through by March or April; I hope he will get it through by June. If so, we will have our election in July or August. The committees will hardly consider it by January or February, so that our election will come in the summer or early next fall, at the time it will suit us best, when the snow will be melted and travel pleasant. I hope it will not be stricken out.

Mr. MAYHEW. I desire to say that it is pretty hard to tell what congress is going to do about this matter. We go there as supplicants, asking to be admitted. I am in favor of the majority report just as it stands being adopted by the convention. If congress should simply admit us upon this constitution, without

passing any law or any enabling act in behalf of the people of this territory, then we can go on as this constitution provides. But if congress should do so by way of saying that the election shall take place as provided in our constitution, and in addition to that give us some aid from a pecuniary point of view to carry out this election and the adoption of this constitution, it would provide the machinery; but if they do not do it, then the machinery already provided in this constitution is sufficient if they approve of our right to be admitted into the Union.

Vote and motion to strike out lost.

Moved and seconded that Section 8 be adopted. Carried.

SECTION 9.

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

SECTION 10.

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

SECTION 11.

Section 11 was read.

Mr. WILSON. I ask unanimous consent that the word "township" be stricken out, and "precinct" be inserted in lieu thereof.

Mr. REID. I accept the amendment; and I move the adoption of the section as amended.

Mr. HEYBURN. I would like to have the amendment reported.

Mr. WILSON. We have no such political subdivision as township; it is precinct.

Mr. HEYBURN. I would like to know what canvassing board has to do with canvassing the returns of precinct officers in the county. There is no present law, and never has been any law in the history of any government by which a canvassing board of the state can-

vasses the returns of precinct offices in the county.

Mr. REID. Section 11 does not provide anything for the canvassing board of the state.

Mr. MAYHEW. I don't think the gentleman has read the section very carefully.

Mr. HEYBURN. I think I have. Mr. President, I notice here that in the sections we have just passed by unanimous vote, except one or two, in section 10 they provide that the president of this convention shall be one of the canvassing board of state officers. I would like to know what authority this convention has to create a canvassing board for state offices.

Mr. REID. We have no authority; but when congress of the United States sheds over this its sanction, then we will have some legal authority to make it.

Mr. HEYBURN. I took that position this afternoon, but the convention did not agree with me.

Mr. AINSLIE. Question.

Mr. HEYBURN. I suppose the gentleman is in a hurry for the question, but I propose to make what remarks I want to in this convention. As I say, I took that position this afternoon, and gentlemen did not agree with me. But I suppose there has a change come over the spirit of their dreams, and they have changed their minds on that subject.

Mr. MAYHEW. I think the gentleman is mistaken.

“Question, question.”

The question was put by the chair. All voting in the affirmative except Mr. Heyburn who voted “No.”

And Section 11 was adopted.

SECTION 12.

Section 12 was read and it is moved and seconded that it be adopted. Carried.

SECTION 13.

Section 13 was read, and it was moved and seconded that it be adopted. Carried.

SECTION 14.

Section 14 was read, and it is moved and seconded that it be adopted. Carried.

Mr. MORGAN. I would like to inquire of the gentleman that has this in charge if this is the same election as provided for by Section 8, and if not, if we are to have two general elections the same year.

Mr. REID. No sir, this is the election for United States senators. The other is the election for state offices at the general election.

SECTION 15.

Section 15 read, and it is moved and seconded that it be adopted. Carried.

SECTION 16.

Section 16 read, and it was moved and seconded that it be adopted. Carried.

SECTION 17.

Section 17 read, and it is moved and seconded that it be adopted.

Mr. HEYBURN. I would like to inquire of the gentleman having charge of this bill, whether according to his ideas the state, if it becomes a state, in the interval between the admission of the state and the meeting of the legislature could use the seal of the territory in the supreme court of the state.

Mr. REID. I don't think it could; but this is literally copied from the constitution of Dakota.¹ I did not prepare the bill, but it was adopted in that way, and that seems to be the language of all those territories in the transition state, and I do not see any other way to remedy it. The truth is, I don't think in the transition state the seal could be used at all; it would be a territorial seal until it became a state, and after it became a state we would have to have a state seal. But this is the language all four territories now in process of incubation into states are using.

¹—Art. 20, Sec. 7, Const. North Dakota, 1889.

Mr. HEYBURN. We have refused in this convention to accept the wisdom of the territory of Dakota, and I think in this instance we may follow that rule without being inconsistent. This provides, "Until otherwise provided by law the seals now in use in the supreme and district courts of this territory are hereby declared to be the seals of the supreme and district courts respectively, of the state." I would like to know how the seal of the supreme court of the territory can be the seal of the supreme court of the state.

Mr. REID. Well, it is this: the gentleman is well aware from his legal mind that you can declare a nail-head or a button or a ten-cent piece or a dime to be a seal, if you wish to, and it would be legal if the law declared it, and it received the sanction of congress, and I presume several states put it in their constitution in the same way, and following in their steps we have adopted it as a convenience. It makes no difference whether it says "State of Idaho" or "Territory of Idaho." But if the state law says you shall adopt a seal with the words "Territory of Idaho" on it, it is just as good as if you adopted the seal on the half-dollar or any other seal. All it requires is sanction of law. The law says it shall be an imprint or seal. If the gentleman has any amendment to suggest on the method that has been adopted by the other constitution makers, the committee will adopt it at once, or if he does not suggest any method and thinks this is not necessary, and would like to have it stricken out, it will not be resisted.

Mr. HEYBURN. I move to strike out section 16, and leave the state to select its own seal.

Mr. GRAY. Who is going to select it?

Mr. REID. That is it. I wanted to see the predicament the gentleman will put us in, having a supreme court without any seal. How would the supreme court certify its papers? We would leave the supreme court with no seal.

Mr. MAYHEW. Well, I don't propose that the gentleman shall put us in any such position. If he wants

to get in such a position himself let him get there.

Mr. GRAY. I feel a good deal that way.

Mr. MAYHEW. Why, certainly; if he wants to get in that position, it makes no difference.

Mr. HEYBURN. If we strike out this section I will offer an amendment to provide for a seal for the state of Idaho. I have suggested to some members of the convention that it was a part of the business of the schedule committee or some committee to provide for a coat-of-arms and seal for the state of Idaho, and this section should have provided for it. The state of Idaho should have a seal or a coat-of-arms provided for it by the schedule committee, or by some committee appointed specially for that purpose. It is not proper that we should adopt in this constitution the seal of the territory of Idaho, because we are to become a state. Our seal bears the coat-of-arms of the territory. It would be easy enough for the committee to say that the seal of the state of Idaho should bear the coat-of-arms formerly adopted by the Territory of Idaho.

The CHAIR. The chair will have to remind gentlemen that you have violated the rules this evening until patience has ceased to be a virtue in the matter of speaking so often. Instead of speaking twice, both gentlemen from Shoshone have spoken three times.

Mr. REID. Do I understand the chair to hold that the person having the bill in charge is violating the rule?

The CHAIR. The gentleman having the bill in charge is Mr. Gray.

Mr. REID. I beg pardon, the gentleman specially requested me to take this bill in charge.

Mr. HEYBURN. Mr. President, I withdraw all objections I have made.

Mr. Reid. I move the adoption of the section. (Carried.)

SECTION 18.

Section 18 read, and it is moved and seconded that section 18 be adopted.

Mr. GRAY. Mr. President, I see one omission in that. In the second line, "Proceedings of the probate court," I would ask to interline after the word "county" the words "State of Idaho."

Mr. REID. That may be done by unanimous consent.

Mr. BEATTY. What county of the state will it be then?

Mr. GRAY. The probate court of the state. It goes from the probate court of the territory to the probate court of the state.

Mr. REID. It strikes me that is supplied as it is. Section 18 was adopted.

SECTION 19.

Section 19 read, and it is moved and seconded that it be adopted.

The CHAIR. The chair would like to inquire of the gentleman from Custer, Mr. Shoup, as to whether this section is or is not a copy of that which was read for the information of the convention the other day on his request.

Mr. SHOUP. I have not a copy of the enabling act before me.

Mr. HEYBURN. I have it here, if the gentleman desires it.

The CHAIR. My impression is it is not an exact copy, and for that reason I desire to call the attention of the convention to it.

Mr. HEYBURN. I will send it to the clerk, if the convention desires to have it.

The CHAIR. If you will be kind enough to do so, Mr. Heyburn.

GOVERNOR'S INVITATION.

Governor SHOUP. Mr. President, as there seems to be nothing before the house just now I desire to offer a resolution.

SECRETARY reads: "To the President and Mem-

bers of the Constitutional Convention: Gentlemen: It has become apparent that your labors are nearing the end, and that before this time tomorrow many of you will be enroute for your homes, and as I have an important measure to submit to you for your consideration, I do most respectfully request that when you adjourn, you adjourn to meet as my guests in the dining hall of the Overland Hotel at ten o'clock this evening.

Mr. REID. I move that that invitation be accepted. Vote and carried.

Mr. REID. I now move that the thanks of this convention be tendered to the governor for his kind invitation by a rising vote.

Carried unanimously.

The CHAIR. The secretary will please read the section which was sent up.

SECRETARY reads: "Section 4. That the delegates to the conventions elected as provided for in this act shall meet at the seat of government"¹—

Mr. HEYBURN. Mr. President, I think that covers the question. I move that this section 19 be referred back to the committee to report an ordinance in conformity with the act of congress.

Mr. REID. I move to amend by adopting that portion of the act just read that applies to public land, and I move that that section when made to conform to the spirit and language of this section, to the language of this act, be adopted as a substitute for section 19.

The CHAIR. The chair will state for the information of the gentleman from Nez Perce, that he will see there are quite a number of things besides the question of public lands. In the judgment of the chair I do not think they form any part of the constitution which we have adopted.

Mr. REID. We have provided for religious tolerance and public schools and lands, except Indian lands.

¹—From Enabling Act of Feb. 22, 1889, for North and South Dakota, Montana and Washington. 25 Stat. at Large 676; 7 Fed. Stat. Ann. 121.

We have done it in this article on Schedule; but taking the constitution as an entirety, and the Bill of Rights, every subject mentioned in that act has been provided for except public lands, and they are provided for (except Indian lands), and I think the point is well taken by the gentleman from Shoshone, that we should do this. With the aid of the gentleman I can draw this section if it is adopted so as to conform to and carry out the requirements of congress.

SECTION 14.

Mr. McCONNELL. I would like to call the attention of the gentleman who has this bill in charge to the fact that section 14 is not in conformity with United States law. We have adopted the section, and I think it will be necessary to go back over it.

Mr. REID. What is the trouble?

Mr. McCONNELL. Congress prescribes the manner in which senators and representatives shall be elected, and this is in direct conflict. The difference is that congress prescribes that at a certain day after the convening of the legislature the houses shall go into conventions respectively, and not joint convention; and here it requires a majority vote to elect United States Senator, and the United States law does not so require.

Mr. BEATTY. To save time I move we take a recess of fifteen minutes to allow time to prepare that section.

Mr. REID. I hope the motion will not prevail.

Mr. BEATTY. My object in making the motion is to get this to the committee on Engrossment tonight and have it ready to incorporate in the constitution in the morning.

Mr. REID. Well, draw the section and let it go as a part of the bill, and the understanding is that the gentlemen will change it so that the verbiage will conform to the act.

Mr. BEATTY. Who will adopt it then?

The CHAIR. The chair hears no second to the motion for recess.

Mr. SHOUP. In regard to this question of election of United States senator, the provision is this: "The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof for six years, and each senator shall have one vote."

Mr. McCONNELL. The United States law clearly defines the method in which United States senators shall be chosen.¹ The legislature of the state shall at twelve o'clock meridian the second Tuesday after they are convened, ballot in their respective houses for United States senator. If they elect a United States senator by that ballot, they shall go into joint convention and declare the result of that ballot valid. If not, they shall continue to ballot until they do elect if it requires the entire session, and it does not require a majority vote to elect a United States senator, according to United States law. A majority of the members there voting; a majority of the members in each house being present, is all it requires. There will be in our legislature fifty-four votes, is it not? Twenty-eight members may elect a United States senator. Nineteen votes, under United States law, can elect a United States senator in our legislature.

Mr. SHOUP. Isn't that state law?

Mr. McCONNELL. That is United States law, which will be laid upon the desks of every member of the legislature, if the secretary of state does his duty, before you commence voting for United States senator.

Mr. REID. Section 3, Article 1 of the United States constitution says: "The Senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof for six years; and each senator shall have one vote." Section 4. "The times, places and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof; but the congress may at any time by law make, or alter such regulations." We

¹—14 Stat. at Large, 243; 2 Fed. Stat. Ann. 210.

have no legislature, and in this constitution we are prescribing time and place and method, and if congress adopts this it will be all right; if they do not adopt it we will amend it and do as congress says. So, upon that it will be all right, and I make the point of order that the section has been passed and adopted and cannot be amended without reconsidering the vote.

Mr. McCONNELL. I am well aware of the fact. I called the attention of the gentleman to this because I thought they had overlooked it. I perhaps have had as much experience, while I am no lawyer, as any gentleman on this floor in regard to the manner in which United States senators are elected, and I quote this to you as the law. If you intend to go on and enact law, which is contrary to the law of the United States, you do it under my protest. And if gentlemen will not—

The CHAIR. This discussion so far as United States senator is concerned is out of order. The chair would suggest, however, that if congress has, pursuant to the power conferred upon it, fixed a method of electing United States senators, after having spent so long a time to get everything right, it seems to me it would be perilous for our convention to depart from it, and that we should have our schedule conform to the statutes of the United States.

Mr. REID. The chairman of this committee adopted the very language of the Dakota constitution,¹ upon which Dakota is now admitted into the Union. Congress has passed upon and approved its constitution.

Mr. MAYHEW. I think not.

The CHAIR. No, I do not so understand it. It has passed an enabling act, and Dakota is getting up its constitution now.

Mr. MAYHEW. The fact is, Mr. President, so far as the election of United States senators is concerned, congress does not interfere so long as they are elected regularly and legally. They do not attempt to interfere

¹—Compare Sec. 17, Art. on Schedule, North Dakota Const. (1889).

with it. If you will observe, in the discussions had a great many years in the admission of the different states, they only inquired into the legality and regularity with which they were elected. I think that if the senators of this state, when it becomes a state, should be elected and have the certificate of the presiding officer, and that of the governor attested by the secretary of state, that is all congress would desire. I do not understand that the legislature shall meet every day at twelve o'clock and ballot during that time, and then adjourn for the next day. So far as the election of senators is concerned, they can do other business if they vote in the meantime; but they can meet in joint convention, or elect by the house. The general rule, so far as my knowledge goes, and that is simply from reading of the election of United States senators, in some places they elect them by joint convention, and in other places they take a separate vote in the two houses and then meet in joint convention and declare their vote. It requires a majority of both houses of the legislature to elect a senator. The gentleman seems to be shaking his gory locks at me on that proposition; I want to say this: Suppose the house should consist of twenty-four members, and thirteen members should vote for senator in the house; and the senate should consist of eighteen members, and ten of them should vote for United States senator. Now, that senator is elected. All they have to do is to meet in joint session to declare their vote jointly. But they can vote separately; they do not have to go into joint session to elect a senator, although some states do it and some do not. But if there is a law of the United States going to that effect, we had better comply with the law of the United States; but I don't know any. The gentleman says he can furnish the law in the morning in that respect.

Mr. McCONNELL. If the convention will take a recess ten minutes, I will furnish it then.

Mr. MAYHEW. I move we take a recess for ten minutes. (Seconded.)

The CHAIR. The suggestion of the chair was made in the interest of conformity. My impression is, that under the power conferred upon congress they established a method of electing United States senators some years ago by statute, and if that is so it would seem to me that it would be advisable, inasmuch as we have no enabling act, and are going simply as petitioners, that we ought not to lay a straw in the way by having a difference between our constitution and the statute of the United States. That is my idea I had in suggesting this other matter.

Mr. REID. I think the suggestion of the chair is well taken, but the bill itself affords no foundation for the objections raised. If the chair will listen to it: "The governor elect of the state, immediately upon his qualifying and entering upon the duties of his office, shall issue his proclamation convening the legislature of the state at the seat of government, on a day to be named in said proclamation, and which shall not be less than thirty nor more than sixty days after the date of such proclamation." Now, observe this: "Within ten days after the organization of the legislature, both houses of the legislature shall then and there proceed to elect in joint convention, two senators of the United States for the state of Idaho. At said election the two persons who shall receive the majority of all the votes cast by said senators and representatives, shall be elected as such United States senators, and shall be so declared by the presiding officers of said joint session." (Section 14) Now, if there is any law in the United States that does not require them to be elected by joint houses of the legislature, and that the person getting the majority is not elected, then I will agree that I know nothing about law or legislation either. We shall in joint session elect two senators, and the man who receives the majority shall be senator. The machinery is provided by statute. We have put the statutes into the constitution. It is presumed the legislature will follow the methods of congress, as to the machinery and the detail; but we here observe the general principle; that

is, it shall be in joint convention, and within ten days after they meet. Give ten days to organize, and then they shall meet. Now, suppose congress approves that. There is nothing in the constitution in conflict with the principle enunciated here. If congress approves it, of course they will come back and elect under the revised statutes which prescribe all this detail, that they shall return from day to day. We do not care to re-enact laws.

Mr. MORGAN. I am inclined to think the gentleman from Latah is correct with reference to this matter. While I do not wish to retard the adoption of this article, I think it would be well for us to learn, if we can before we adopt this, whether it is in conflict with United States law or not. If we adjourn until tomorrow morning, and let the committee examine this matter——

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

Mr. MORGAN. Certainly.

Mr. REID. Suppose it were provided that the legislature should elect them in joint convention; wouldn't they have the power to do it?

Mr. MORGAN. I think, as suggested by the president of the convention, we ought to know what the United States law is upon this subject.

Mr. REID. I will ask the gentleman another question. Does not the legislature of South Carolina pursue an entirely different method?

Mr. MORGAN. I do not know a thing about the legislature of South Carolina—I do know a little something about it, of course; but however that may be——

Mr. REID. Then the point I make is, if the gentleman does not know, he ought not to found his objections on presumptions and charge the committee with ignorance in framing the statute, when the gentleman who framed it followed a statute sanctioned by congress.

Mr. MORGAN. I understand the gentleman himself not to assert that he knows that is not the law. He

has not stated that he knows anything about this law that has been spoken about by the gentleman from Latah; and if he certainly does not know that it is not the law, then I think we ought to learn what the law is. We are none of us too old to learn.

Mr. REID. I have not stated that I do not know what the law is at all. The gentleman may be right; and yet there is no conflict in this clause at all, because I know the law says they shall be elected by joint session.

Mr. MORGAN. I do not choose to keep up a running fire between the gentleman and myself. All I say is, I think it would be wise and judicious to know what the law is before we adopt this section, and if it is exactly as the gentleman states we are all right. If it is not as he states, I think we are wrong.

Mr. GRAY. In less time than we have been talking here—the books are right downstairs in the library here, the statutes are—we could have determined it.

Mr. BEATTY. Mr. President, as there is nothing before the house I presume we are simply talking to hear ourselves talk. And I am very much gratified to find there are so many gentlemen here interested in the office of United States senator. One of the fears I have had was that we would have no candidates for senator to elect. I now think we will have candidates for that office when it comes, and I am very much obliged to my friend from Latah for bringing the matter up.

(By common consent the subject under discussion was temporarily abandoned for the purpose of looking up the law on the subject, and other proceedings followed.)

SECTION 19.

Mr. HEYBURN. Mr. President, I offer the following substitute for Section 19.

SECRETARY reads: "It is ordained by the State of Idaho that perfect toleration of religious sentiment shall be secured, and no inhabitant of said state shall

ever be molested in person or property on account of his or her mode of religious worship; and the people of the state of Idaho do agree and declare that we forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits held or owned by any Indians or Indian tribes, and until the title thereto shall have been extinguished by the United States, the same shall be subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States; that the lands belonging to citizens of the United States residing without the said state of Idaho shall never be taxed at a higher rate than the lands belonging to residents thereof; that no taxes shall be imposed by the state on the lands or property therein, belonging to, or which may hereafter be purchased by the United States or reserved for its use. And the debts and liabilities of this Territory shall be assumed and paid by the state of Idaho.”

Mr. BEATTY. I move its adoption.

The CHAIR. I suggest to the gentleman from Shoshone that the words “irrevocable without the consent of the United States and the people of the state of Idaho” ought to be included.

Mr. HEYBURN. I intended to add at the conclusion of the section that this ordinance should be irrevocable without the consent of the United States. There was a running discussion on at the time, and I inadvertently omitted them. I intended to add that to that ordinance. Section 20 here is not definite enough.

Mr. GRAY. This says that this ordinance shall be irrevocable without the consent of the United States and the people of the state of Idaho.

Mr. HEYBURN. I can arrange that by just striking out section 20 and moving that it be a part of this ordinance. Make section 20 a part of this ordinance and that will cover it.

The CHAIR. It is moved and seconded that the

substitute offered by the gentleman from Shoshone for section 19 be adopted. (Carried.)

The CHAIR. The question now recurs upon the motion of the gentleman from Shoshone to strike out Section 20 and add Section 20 to the end of Section 19 just adopted as the substitute. (Carried.) The clerk will make the necessary change.

PROPOSED SECTION 20.

Mr. CAVANAHA. Now, Mr. President, as there is no Section 20, I offer this:

SECRETARY reads: Section 20. No member of this constitutional convention shall be eligible to the office of United States senator, or any state or district office in the state of Idaho for two years next after the adoption of this constitution." (Laughter and applause.)

Mr. MAYHEW. I second that motion.

Mr. CAVANAHA. I hope this convention will not laugh that down.

Mr. REID. I demand the yeas and nays.

Mr. CAVANAHA. Well, I demand the yeas and nays.

Mr. GRAY. There is no danger, after the people see this work here, they will not get into office for ten years.

The CHAIR. It is moved and seconded that Section 20 as contained in the amendment sent up by the gentleman from Elmore be adopted.

Mr. HEYBURN. I ask that it be read.

The secretary rereads the proposed section.

Mr. MAYHEW. I desire to offer an amendment to that section, that the gentleman offering it shall not be eligible to the office of President of the United States. (Seconded.)

Mr. CAVANAHA. I call for the yeas and nays on that.

Mr. Mayhew. I insist on my amendment.

Mr. McCONNELL. Mr. President, is that an additional section? I move that it be laid on the table, and on that I call for the yeas and nays.

Mr. REID. I second the call.

Mr. MAYHEW. I want to know if that embraces my amendment as to the President of the United States. If it does, I shall vote Yea; if not I shall vote Nay. I vote No.

The CHAIR. On the motion to lay on the table the additional section offered by the gentleman from Elmore the vote is yeas 35, nays 24.

Mr. SHOUP. I move that that motion be expunged from the record. (Seconded.)

Mr. CAVANAH. Before the vote is taken I wish to state my object in offering that section. The members here seemed to take it all in fun. We have such a thing in our statutes now. I suppose you all know it. There are a great many here have been accused of trying to be future senators. I don't believe a word of it. (Laughter) I wish to go before the public, and have this whole convention go before the public, as disinterested constitution makers, nonpartisan, as we came into it.

Mr. REID. I move the adoption of Section 21.

It is moved and seconded that the motion for the adoption of the proposed Section 20, and the proceedings had thereon be expunged from the journal proceedings. (Carried.)

SECTION 20.

Section 21 (20) was read. Moved and seconded that it be adopted. Carried.

SECTION 14.

Mr. REID. Mr. President, I ask unanimous consent to return to Section 14 and insert in line 6 in lieu of "in joint convention" the words "as prescribed in the statutes of the United States," or the words "as provided by law," which covers the objections of the gentleman from Latah and the gentleman from Bingham. It will read then, "the legislature shall then and there proceed to elect, as provided by law." I move to strike out the

words "in joint convention," and insert "as prescribed by law," after the word "elect" in line 6.

Mr. MAYHEW. I would like to have some information. That would allude particularly to the statutes of the United States.

Mr. REID. Yes, I have examined the statutes, and it answers the objections made by the gentleman.

Motion to amend Section 14 carried.

Mr. REID. I now move the adoption of the article as amended.

Mr. McCONNELL. I suggest that it will be necessary to change the verbiage of that. Where do you insert that?

Mr. REID. In line 6.

Mr. McCONNELL. Then the words "at said election the two persons who shall receive the majority of all the votes cast by said senators and representatives shall be elected as such United States senators, and shall be so declared by the presiding officers of said joint session," should be stricken out.

Mr. REID. They should not, because the statute shows that they have been elected in both houses; they shall go into joint session and declare them elected.

Mr. McCONNELL. It says further that the majority of the members of both houses being present and voting.

Mr. REID. The election is presumed to have been held as provided by law. If it has been held according to law, they meet in joint session and declare the result. I move the adoption of the article as amended.

ARTICLE XXI. ADOPTED.

Mr. HEYBURN. I call for the yeas and nays.

Roll call:

Yeas: Ainslie, Allen, Anderson, Armstrong, Batten, Beane, Beatty, Bevan, Blake, Campbell, Chaney, Clark, Coston, Crutcher, Glidden, Gray, Hammell, Hampton, Harkness, Harris, Hays, Hogan, Howe, Jewell, King, Kinport, Lamoreaux, Lemp, Lewis, Maxey, Mayhew, Melder, Myer, Morgan, Moss, Parker, Pefley, Pierce, Pyeatt, Reid, Robbins, Savidge, Sinnott, Shoup, Standrod,

Steunenberg, Stull, Taylor, Underwood, Vineyard, Whitton, Mr. President—53.

Nays: Hasbrouck, Heyburn, McConnell, Pinkham, Sweet, Wilson—6.

The CHAIR. The article is adopted and referred to the committee on Revision for enrollment in the constitution.

Mr. REID. I ask unanimous consent that the bill may be considered as engrossed and go to the committee on Enrollment. There are but two changes in it, and the printed copy is correct.

The CHAIR. Unanimous consent is asked that the article just adopted be considered engrossed and passed to the committee on Enrollment. Is there any objection to this order being made? There is no objection, and the order will be so made.

Mr. MAYHEW. I move we adjourn until nine o'clock tomorrow morning.

REPORT ON FEDERAL RELATIONS.

Mr. HEYBURN. The committee on Federal Relations has not yet I think reported to the convention. The rules provide for this committee to report all memorials addressed to the several governmental heads of departments. There are several memorials and resolutions adopted by this convention, and there should be some report as to whether or not those matters have been forwarded, or any provision made to forward them to the general government.

Mr. MAYHEW. I have no objections to that at all, Mr. President; but I would like to have a call from the chairman of that committee to see whether there is any preparation made for a report of the committee.

Mr. HEYBURN. I would like to have a report from that committee at some time tonight or tomorrow morning. In order to bring the matter before the convention properly, I move that the committee on Federal Relations report to this convention at nine o'clock tomorrow morning.

Mr. AINSLIE. I think we ought to meet at one o'clock tomorrow, so that the committee on Address can have it ready to report to the convention tomorrow.

The question on the motion to require the committee on Federal Relations to report tomorrow morning was put by the chair. Carried.

The CHAIR. The question now recurs on the motion of the gentleman from Shoshone, (MAYHEW) to adjourn until ten o'clock tomorrow.

Mr. AINSLIE. I move an amendment, Mr. President, by saying one o'clock tomorrow. (Seconded).

Mr. MAYHEW. That will come in conflict with the motion just now prevailing, that this committee report tomorrow morning at nine o'clock. And now you make a motion that we adjourn until one o'clock. Can't we make it ten o'clock and receive the report of that committee and then adjourn until one o'clock?

The CHAIR. The motion was to report to the convention on assembling tomorrow.

READING OF CONSTITUTION.

Mr. BEATTY. I don't suppose the convention proposes to adjourn without hearing this constitution read. As chairman of the committee on Revision I do not want them to adjourn until they hear it read publicly; and if we meet at one o'clock tomorrow, we won't get away tomorrow night. It will take an hour at least to read that constitution, and the committee hopes to be ready by tomorrow morning so that it can be read. As chairman of that committee I will say very plainly that I don't want it left to this committee to say whether it is right or not. I want it read before the open convention, to hear and compare it as it is read, and I shall insist on that being done.

Mr. AINSLIE. I will withdraw the motion. I guess the committee on Address can make their report when they please next week.

Mr. ALLEN. The committee on Printing would

like to ask if the report of the committee on Address is to be printed.

The CHAIR. That was to be printed in connection with the constitution.

Mr. HEYBURN. I move we adjourn until tomorrow morning at nine o'clock. (Carried).

Convention adjourned until nine o'clock A. M., August 6th, 1889.

TWENTY-EIGHTH DAY.

August 6, 1889, 9:00 o'Clock A. M.

Convention called to order by the president.

Prayer by the chaplain.

Roll call:

Present: Ainslie, Allen, Anderson, Armstrong, Ballentine, Batten, Beane, Beatty, Bevan, Blake, Campbell, Cavanah, Chaney, Clark, Coston, Crutcher, Glidden, Gray, Hammell, Hampton, Harkness, Harris, Hasbrouck, Hays, Heyburn, Hogan, Howe, Jewell, King, Kinport, Lamoreaux, Lemp, Lewis, Maxey, Mayhew, McMahon, Melder, Myer, Morgan, Moss, Pefley, Pierce, Pinkham, Pyeatt, Reid, Robbins, Savidge, Sinnott, Shoup, Standrod, Steunenberg, Stull, Sweet, Taylor, Underwood, Vineyard, Whitton, Wilson, Mr. President.

Absent: Andrews, Brigham, Crook, Hagan, Hendryx, McConnell, Poe, Pritchard, Salisbury, Woods.

The journal was read and approved.

REPORTS OF STANDING COMMITTEES—WAYS AND MEANS.

Mr. HASBROUCK. The committee on Ways and Means desires to report.

SECRETARY reads: Mr. President, your committee has had under consideration, and carefully examined the accompanying bills for articles furnished and services performed to carry on the business of the constitutional convention, and recommend that certificates be issued to the parties for the amounts, namely:

To James A. Pinney & Co.....	\$479.65
Jacob Diehl	8.00