

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

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

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

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

Mr. CAMPBELL. Second the motion.

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

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

Mr. BAXTER. Second the motion.

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

TENTH DAY.

MORNING SESSION.

Thursday, Sept. 12, 1889.

Convention reassembled at 10 o'clock.

President Brown in the chair.

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

Prayer.

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

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

Mr. MORGAN. Mr. President.

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

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

Mr. BURRITT. I object.

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

(Reading of journal of ninth day.)

Mr. PRESIDENT. Are there any corrections to be made in the journal?

Mr. CONAWAY. There was a proposition introduced by Mr. Frank, in regard to the suffrage question—I have forgotten the number of the file. The record was read showing it was referred to Committee No. 7, which I think is a mistake. I think it should be No. 5.

Mr. PRESIDENT. Are there any further corrections to be suggested? The chair hears none and the record stands approved.

Mr. RINER. Mr. President.

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

Mr. RINER. I would like very much to get a meeting of Committee No. 3, and I am informed that Mr. Moore of Crook county will not be here. If my information in regard to that matter is correct, I would like to have his place filled on Committee No. 3 by some member from that county who is present.

Mr. PRESIDENT. Committee No. 3, executive department. The chairman will name as the representative from Crook county on that committee in the place of Mr. Moore, Mr. R. H. Scott. And also on Committee No. 2 in place of Mr. Moore, Mr. Meyer Frank, of Crook county.

Mr. FRANK. Mr. President.

Mr. PRESIDENT. The gentleman from Crook, Mr. Frank.

Mr. FRANK. I have just received a communication from Mr. Scott that he has been called away on important business, and wishes to be excused for ten days. Perhaps it would be well to put some one else on that committee in his place.

Mr. PRESIDENT. If Mr. Scott is not to be present the chair will name Mr. Richards in place of Mr. Scott on Committee No. 3.

Mr. SMITH. Mr. President.

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

Mr. SMITH. I asked the other day that this matter be deferred a few days. I see Mr. Davis is on Committee No. 3. If that committee wants to get to work it would perhaps be well to fill his place, as I have not yet heard a word as to when he will be down here.

Mr. PRESIDENT. The chair has held the place in which Mr. Davis' name was put on that committee as vacant. I have heard that he will be here in a day or two, and his services will be valuable when he comes, and unless desired by the convention I will not fill the place at this time. If the convention desires I will fill the committee at any time, when it is requested. Does the gentleman from Carbon, Mr. Smith, move that the place be filled?

Mr. SMITH. I do not care to.

Mr. BAXTER. Because of the continued absence of a majority of Committee No. 1 I think it might be well to make some substitutes on that committee, or to add a few names to the committee in order that we might have a quorum.

Mr. PRESIDENT. I will say to the gentl man from Laramie that I think there is no doubt as to the correctness of the information that I have received in regard to the members of his committee. Mr. Clark will be here by 10 o'clock, or as soon as the train comes in, and it is expected that Col. Downey will be here in a day or two. Mr. Hopkins stated when he left that he would be back on to-morrow's train, so that as the committee is now constituted, a large majority of its members will be present within the next twenty-four hours. Is it the desire of the convention that there be new members added to the committee? It can be done at any time.

The gentleman from Laramie, Mr. Morgan, made a motion a little while ago that committee No.2 be excused during the sitting of the convention to-day. Are you ready for the question? All in favor of the motion will say aye; those opposed, no. The noes seem to have it. The noes have it, the convention refuses to excuse committee No. 2 during the session.

Mr. POTTER. Mr. Organ desired me to ask the convention to excuse him from its session to-day, as he was called out of town on important business, and will not return until this evening.

Mr. PRESIDENT. Is there objection to Mr. Organ's being excused for the day? The chair hears no objection, and the record will show that he is so excused. It is so ordered, Mr. Secretary.

Mr. BAXTER. Mr. President.

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

Mr. BAXTER. I think the fact developed in our work yesterday that we have reached a point where the services of an enrolling and engrossing clerk should be secured, and I desire to ask if the chair will entertain a motion for the creation of that office?

Mr. PRESIDENT. It is a matter entirely under the control of the convention. They can create such offices as they please. The report of the committee on rules provided for certain officials. If additional officers are to be provided for, it would seem to change the present rules. The chair would suggest to the gentleman from Laramie that he give notice of a motion to amend the rules by creating an additional officer, and it can come up to-morrow for the action of the committee. Perhaps that will be in time for the necessary services of such person.

Mr. BAXTER. I will move that the rules be suspended in order that we may proceed to-day.

Mr. SMITH. Second the motion.

CHAIR. It is moved that the rules be suspended and that we proceed to elect an enrolling and engrossing clerk. Are you ready for the question? All in favor of a suspension of the rules for the purpose named will say aye; those opposed, no. The ayes have it, the rules are suspended. The house may proceed to the election of an enrolling and engrossing clerk.

Mr. BAXTER. I move that an enrolling and engrossing clerk be elected by this body, whose compensation shall be the same as that of the two assistant secretaries, and dependent upon the same conditions.

Mr. SUTHERLAND. Second the motion.

Mr. PRESIDENT. It is moved that the convention now proceed to the election of an enrolling and engrossing clerk, upon the same terms and conditions that the various other officers of the convention are employed. Are you ready for the question? All in favor of the motion will say aye; those opposed, no. The ayes have it, the motion prevails. How will you elect, gentlemen? I will appoint as tellers, Mr. Reed of Laramie, and Mr. Elliott of Johnson. The gentlemen will prepare the ballots and proceed to the election as ordered.

Mr. BAXTER. I desire to place in nomination the name of Mrs. Ollernshaw, and to say that it is hardly necessary to commend the lady to the Laramie county delegation who know her. I only wish to add, for the information of the other members of the convention, that the lady has been employed for some years in different capacities as a copyist, and that her qualifications for the position cannot be called into question. She is a very rapid writer, and writes an unusually clear and legible hand.

Mr. RINER. Second the motion.

CHAIR. Are there any further nominations?

Mr. FOX. I move that Mrs. Ollernshaw be declared elected without further action.

Mr. IRVINE. Second the motion.

Mr. PRESIDENT. It is moved and seconded that Mrs. Ollernshaw be declared elected by acclamation as enrolling and engrossing clerk of this convention. Are you ready for the question? All in favor of the motion will say aye; those opposed, no. The ayes have it, Mrs. Ollernshaw stands elected.

The presentation of petitions, ad memorials, and the introduction of propositions and resolutions are now in order.

The secretary will read the propositions in the order presented.

SECRETARY. File No. 66, by Mr. Reid, concerning Chinese labor.

Chinese labor.

Sec. 1. That it shall be unlawful for any contractor, builder or architect to employ Chinese laborers upon any public works within the limits of the state of Wyoming.

Sec. 2. The legislative assembly shall by suitable legislation see that the provisions of the foregoing section are enforced.

Mr. PRESIDENT. Unless otherwise ordered by the convention, this File No. 66 will be referred to Committee No. 10, on labor, &c.

SECRETARY. File No. 67, ordinances, by Mr. Harvey.

Mr. PRESIDENT. File No. 67, unless otherwise ordered, will be referred to Committee No. 20, on ordinances. It is so referred. Mr. Secretary.

Gentlemen, File No. 58 is reported back to the convention by your committee of the whole with certain amendments recommended. The first is to amend Sec. 1 by striking out all after the word "class" in the fifth line. What will you do with this recommendation as reported by the committee of the whole? The question is upon the adoption of the recommendation reported. All in favor of the amendment recommended by the committee of the whole will say aye; those opposed no. The ayes have it; the section is so amended. Your committee of the whole also recommend to amend Sec. 2 by striking out the words "according to law" in the third line of said section, and inserting in lieu thereof the words "in the manner and under such regulations as may be prescribed by law." The question is on the amended section. Are you ready for the question? All in favor of the amendment as reported by the committee of the whole will say aye; those opposed no. The ayes have it; Sec. 2 is amended.

Mr. BURRITT. Mr. President.

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

Mr. BURRITT. I move that we take a recess until 2:30 this afternoon.

Mr. POTER. Second the motion.

Mr. PRESIDENT. It is moved that the convention now take a recess until 2:30 this afternoon. The question is on taking a recess. Are you ready for the question? All in favor of the motion will say aye; those opposed no. The noes have it. A recess is denied. The clerk will read the next section.

(Reading of Sec. 3.)

Mr. PRESIDENT. The committee of the whole recommend that Sec. 3 be amended by adding "except in the event that money so raised shall not be required or needed for the purpose for which the same was raised." The question is on the adoption of the proposed amendment as recommended by the committee.

Mr. POTTER. Would it be in order to move an amendment to that amendment?

Mr. PRESIDENT. The matter is before the convention for the adoption of the proposed amendment, refusal to adopt it, or to further amend the file.

Mr. POTTER. I move then that instead of the words recommended by the committee of the whole, that the section be amended by adding the words "except by authority of law."

Mr. HARVEY. Second the motion.

Mr. BURRITT. Mr. President.

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

Mr. BURRITT. I wish to offer a further amendment. That in place of the amendment recommended by the committee that there be inserted here the words "unless it be a small unexpended balance unnecessary for the purpose for which the same was raised."

Mr. PRESIDENT. Does the gentleman move that as a substitute to the other amendment?

Mr. BURRITT. I do, Mr. President.

Mr. PRESIDENT. The committee of the whole recommend that Sec. 3 be amended by adding the words already read, "except in the event the money so raised shall not be required or needed for the purpose for which the same was raised." It is now moved by the gentleman from Laramie that the amendment proposed by the committee of the whole be amended by substituting the words "except by authority of law." The gentleman from Johnson, Mr. Burritt, moves a substitute for the substitute. The last motion cannot be entertained at this stage of the proceedings. The question will first come up, then on the substitute offered by the gentleman from Laramie, Mr. Potter, that the words "except by authority of law" be added, instead of the words reported by the committee of the whole. Are you ready for the question?

Mr. BAXTER. Mr. President.

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

Mr. BAXTER. In view of the fact that this matter has been discussed almost entirely by the lawyer contingent of this body, it seems to me that it is time the laymen expressed their views on the subject. It seems to me that the provisions as returned by the committee is the one that we should adopt, and I am not inclined to sanction any of these amendments that are proposed, and for this reason. It is provided in the printed report, as we have it here, that no money raised for one purpose shall "ever be diverted to any other." That is the substance of the bill. That, of course, could not be so constructed as to provide that any excess raised in this way should not be returned to the parties who contributed this tax, or supplied the tax. If there should be any such surplus it would properly be the property of the people against whom the assessment was made, and should be returned to them, and I anticipate that there will be no legal difficulty in the way of securing that return, as it would be an illegal tax. It would be an illegal assessment because it exceeded in amount the sum necessary to carry out the purpose for which it was levied, and such surplus

would, of course, have been illegally collected, and while there might be some trouble in returning to any large number of people such an excess as would be on hand in small amounts, it seems to me that it would be better to anticipate such an evil as this than to leave the doors open for any possible assessment that might be made two or three times greater than the amount required and levied for the purpose, with the idea of applying it to some other purpose, that is, the surplus on hand, and I think it would be better to shut the door right there, without any of those amendments, upon the ground that it is the lesser of two evils.

Mr. SMITH. Mr. President, I would like to ask the gentleman from Laramie a question. In the first place, I want to say that if the surplus was collected or received from the parties assessed it would be no illegal tax, if they were not forced to pay it. But that is not the question. This section provides for the borrowing of money for a specified purpose. Does the gentleman mean to say that if a surplus was left in the fund borrowed in that way, that it would be illegally received by the municipality?

Mr. BAXTER. I made that statement, having heard it argued yesterday by the lawyers who were discussing this question. I don't know that it would be illegal in that case of a loan, but it should certainly be properly returned I think.

Mr. SMITH. I do not care to make any argument on that subject today at all, as it was fully discussed yesterday, but all I want to say now is to call the attention of the house to the substitute now before us. If you put in that "except as provided by law" you entirely take away the force of that section. You leave it to the legislature to say whether the surplus shall go to some other fund or be turned into the treasury. I don't pretend to say whether the amendment as placed here yesterday will reach the point desired or not but there should be something here which should be definite, and we should not depend upon the legislature to reach it.

Mr. CAMPBELL. I move the previous question.

Mr. REID. Second the motion.

Mr. PRESIDENT. The question now is shall the main question be put. All in favor that the main question now be put will say aye; those opposed no. The ayes have it; the motion prevails. The question is now upon the adoption of the substitute offered by the gentleman from Laramie, Mr. Potter. All in favor of the adoption of the substitute will say aye; those opposed no. The chair is in doubt. A division is called for. All those who favor the substitute will rise to their feet and stand until counted. Twenty-one. All those opposed to the substitute will rise and stand until counted. The chair counts fifteen opposed. The motion prevails; the substitute is adopted. The question is now shall the bill be amended in accordance with the terms of the substitute? All in favor of the motion will say

aye; those opposed no. The ayes have it; the proposition is amended as proposed by the gentleman from Laramie, Mr. Potter.

(Reading of Sec. 5.)

Mr. PRESIDENT. The proposition originally presented is recommended to be amended by adding the following section, I will read it again for the information of the convention.

SECRETARY. Sec. 5, to be added as follows:

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

Mr. PRESIDENT. The proposition originally presented is recommended to be amended by addition of the section just read. The question is now upon amending by adopting the section as read. Are you ready for the question? All in favor of the question will say aye; those opposed no. The ayes have it; the original proposition stands amended by adding Sec. 5.

Mr. BURRITT. I would like to ask if the proposition as a whole is subject to amendment.

Mr. PRESIDENT. The whole proposition is now before the convention for amendment or other disposition.

Mr. BURRITT. I move to strike out all of Sec. 3 after the words "specified by law" in the fifth line.

Mr. POTTER. Second the motion.

Mr. PRESIDENT. It is moved that Sec. 3 be amended by striking out all of said section after the words "as specified by law" in the fifth line of said section. Are you ready for the question? All in favor of the motion will say aye; those opposed no. The ayes seem to have it; a division is called for. All in favor of striking out will rise to their feet and stand until counted. The chair counts twenty-three. All opposed to striking out will stand. Five. The motion prevails. Are there any further amendments? Under our rules, without some action by the convention, this bill would now come up for final reading, Do you desire to have it referred for engrossment?

Mr. TESCHEMACHER. Do I understand that this bill is a part of the constitution?

Mr. PRESIDENT. It is to be.

Mr. PRESIDENT. Under our rules after the committee of the whole are done with it, and as it has been agreed to by the convention it is referred to the revision committee, and after that it is engrossed under their direction. That is the way I read these rules.

Mr. POTTER. I think it goes to the revision committee after we have adopted it.

Mr. PRESIDENT. The only question is whether it is not so mutilated in its present form that it could never be understood quite what was adopted by this convention. If it should be engrossed at this time and then adopted then it could go to the revision committee, and they would understand what has been adopted by the convention. In its present form there might be some doubt about it.

Mr. TESCHEMACHER. That is just the point, Mr. President. I don't see where the revision committee comes in. We might make some changes not intended by the convention at all. If the rules do not cover this I would like to suspend the rules so that these amended bills can be referred to the revision committee to take charge of the engrossment, and see that this bill is properly engrossed.

Mr. PRESIDENT. I will read the rule that controls this matter. "All reports of the committees containing matter to be incorporated in the constitution shall be considered in the order in which the reports are made, and upon their introduction and full reading before the convention such matters to be incorporated shall be laid upon the table and (when so ordered) be printed, and when printed (if so ordered) shall be placed upon the calander to be considered in committee of the whole convention, and if not ordered printed they shall be placed upon the calander to be considered by the committee of the whole." This proposition has been considered in committee of the whole and reported back for action in the convention. According to the next rule, No. 52, "when such propositions shall have been considered in the committee of the whole and amendments thereto have been disposed of by the convention, the question shall be on ordering the final reading and fixing the time thereof."

Mr. POTTER. I move that this file be finally read, section by section, and each section submitted to the convention for final passage separately.

Mr. HARVEY. Second the motion.

Mr. PRESIDENT. On the final reading of a bill or proposition, it is the reading of the whole bill and not a section, and the vote must be taken on the whole bill by the ayes and noes.

Mr. POTTER. As this is the first time this question has come up, I say let us have it decided. I apprehend that every section of this constitution is a separate proposition. This is not like a bill before a legislative body at all. They dispose of the subject matter. This is entirely different. I may object to but one section in a bill. Do you mean to say that I am bound to vote down that whole article because I cannot support one section of it, when I may be in favor of all the rest of it. I take it not. I believe in a matter of this kind we have the right to vote upon it section by section, otherwise many of us will have to be absent, and not vote at all, or else will have to vote no.

Mr. PRESIDENT. The chair is of the opinion that when a proposition is reported by the committee of the whole, it stands as a whole proposition before the convention, and when finally read, for adoption, it is read as a whole, and must be voted on as a whole.

Mr. POTTER. I desire to take appeal from the decision of the chair.

Mr. PRESIDENT. An appeal is asked from the decision of the chair upon the point stated. All supporting the appeal from the decision of the chair will rise to their feet and stand until counted.

Mr. COFFEEN. Although I do not wish to appear immodest, or to intrude, I am of the opinion that the question should be shall the decision of the chair be sustained, taking the affirmative side of the question first.

Mr. PRESIDENT. The suggestion of the gentleman is correct. Shall the decision of the chair be sustained? All in favor of the ruling will rise to their feet and stand until counted.—25. All opposed will rise and stand until counted.—8. The decision of the chair is sustained. Gentlemen, the motion of the gentleman from Laramie, Mr. Potter, is as to the final reading of the bill, and fixing the time for the same. The chair ruled the motion as made to read by section out of order. The question now is when will the final reading of the proposition be had?

Mr. RINER. I move that the proposition be now finally read and submitted to the convention for their final action, and that the roll be called.

Mr. CAMPBELL. Second the motion.

Mr. PRESIDENT. It is moved and seconded that the proposition be put upon its final reading. Are you ready for the question? All in favor of the motion will say aye.

Mr. FOX. Mr. President.

Mr. PRESIDENT. The gentleman from Albany, Mr. Fox.

Mr. FOX. I would like to ask a question for information. Provided this file is adopted as it stands, would it prevent the introduction and passage of another section at a future time, and if the revision committee could add it to this file?

Mr. PRESIDENT. The chair does not pass upon any matter of that kind.

Mr. FOX. It is my opinion this file can be passed, and become a part of the chapter on municipal corporations, and that other sections, if introduced and passed, could be added to this file, according to the judgment of the revision committee.

Mr. PRESIDENT. It is the impression of the chair that the passage of one proposition does not preclude the passage of another.

Mr. McCANDLISH. I would like to ask for information. In Rule 55, I find, "The final vote agreeing to each proposition and upon agreeing to the instrument as a whole shall be

taken by the yeas and nays, and no such proposition shall be considered as agreed upon, nor the instrument as a whole except a majority of the delegates present vote therefor." Have we voted upon this separate proposition?

Mr. PRESIDENT. We are about to vote on a separate proposition the first time after the final reading.

Mr. COFFEEN. I would like to call attention to one point. We have proceeded with the consideration of these sections, and amended them, but I have heard no motion to adopt a single one of them as amended, and this rule that the gentleman has just read would indicate to my mind that we must adopt them as sections before we should proceed to the final reading and adoption as a whole.

Mr. PRESIDENT. Amendments have been adopted to the different sections, which have been from time to time before the convention for its consideration.

Mr. COFFEEN. But has a motion been carried this morning to adopt any one of these sections. They have been amended, but was there any motion to adopt the sections as amended? I think not.

Mr. PRESIDENT. The question is upon the final reading of the whole proposition as amended, and its final passage. Is there objection?

Mr. PALMER. I would like to ask for some information. I am in favor of all of this article except section 3, and object to only part of that. I want to know how I am able to vote for the article with that section in. I want to vote for it, but as it stands now, I would be unable to express my opinion on the matter.

Mr. PRESIDENT. The gentleman could have easily reached his objection. He had the right to amend by striking out any part of the bill when it was before the convention for amendment. There was no trouble in reaching that matter whatever. The gentleman made no motion to strike out the section, or to otherwise amend it. It was amended and the amendments stand as the action of the convention.

Mr. COFFEEN. I hope I may not appear to be too persistent, but I wish to read this section of the rules. Rule 55. "The final vote agreeing to the instrument as a whole shall be taken by the yeas and nays." Now let me argue on that "when agreed to as a whole." The rule says "when agreed to as a whole" shall be taken by the yeas and nays. I say we are not ready for that. I have not yet been able once during the whole debate to vote upon any of these sections. I have voted only on the amendments to the sections, but have not been called upon to agree to the proposition as amended, on single sections, and I therefore stand as the gentleman from Laramie, Mr. Potter, that we have the right to first cast our vote on these sections separately, and then upon the proposition as a whole.

Mr. CONAWAY. I consider this question all out of order, but I also ask the privilege of saying a few words out of order.

The question discussed by the gentleman from Sheridan, Mr. Coffeen, has, as I understand it, already been passed upon by the chair, and the decision of the chair appealed from, the difference of opinion being as to whether the word proposition means section, or whether a single proposition may include several sections. The chair has ruled that a proposition containing several sections, when reported back by the committee of the whole is one proposition. The convention sustained the decision of the chair when the appeal was made, and I therefore consider all the remarks since that decision were out of order, and shall raise that point of order against any further discussion of this matter.

Mr. PRESIDENT. The chair considered the whole matter settled by the convention, but I wish to state in answer to some suggestions that have been offered, that it is unquestionably the opinion of the chair that when the committee reports back a proposition to the convention, the whole matter reported is a single proposition, no matter how many sections may compose it. The matter referred to in the latter part of Rule 55 refers to the entire construction, and not to a proposition, nor to any portion thereof. We are to vote upon the whole constitution whenever it shall be drafted and presented to the convention, and the latter part of this rule applies to that and not to any portion of propositions reported by committees, either as an entirety or as a part. The secretary will read.

(Final reading of File No. 58.)

Mr. PRESIDENT. The question now before the convention is the adoption of File No. 58 as amended, to be adopted as a part of the constitution. All in favor of the proposition contained in File No. 58 as amended will say aye as their names are called; those opposed no.

Mr. MORGAN. I desire to ask for information. Is this proposition at this stage subject to amendment? I can see that it is because nobody would allow a proposition or bill to get out of their control entirely until final passage of it was had. There may be amendments which we may wish to offer to certain bills, and I think that when a bill is before the convention we still have the right up to the time the ayes and nays are called, we still have the right to amend that bill as we wish.

Mr. PRESIDENT. The chair is in doubt. It is the impression of the chair that after the final reading of a bill has been ordered, and when the vote is about to be taken on the final passage, by a call of the ayes and noes, that it has passed the point of amendment; but, as I say, I am in doubt about this, and leave it for the convention to dispose of at this time as they may think best.

Mr. RINER. I ask that the ayes and nays be called.

Mr. PRESIDENT. The ayes and nays have been ordered on the passage of this proposition. The clerk will call the roll.

(See journal page 51.)

Mr. PRESIDENT. Gentlemen, the vote on the proposition contained in File No. 58 is as follows: Ayes, 30; noes, 9; the proposition contained in File 58 has been adopted by the convention.

Mr. TESCHEMACHER. I give notice that having voted with the majority I shall move to reconsider the vote on this proposition; I believe it requires twenty-four hours notice.

Mr. IRVINE. Second the motion.

Mr. PRESIDENT. Rule 39 provides that a motion to reconsider must be made by a member voting with the prevailing side, and such motion to be in order must be made within the next day of actual session of the convention after such vote was taken, and the same shall take precedence of all motions except a motion to adjourn. Does the gentleman wish to move to consider it at this time?

Mr. TESCHEMACHER. I move to reconsider the vote now.

Mr. POTTER. I move that motion be laid on the table.

Mr. MORGAN. I move that the whole subject be indefinitely postponed. I do that because the motion to lie on the table is not debatable, and if it takes that shape we can then bring this matter up for discussion again if we see fit to do so.

Mr. PRESIDENT. There is one thing I was intending to speak of, and that is a motion to lay on the table carries the whole proposition with it, and if the mover of that insists upon his motion he must remember that he tables the whole proposition at the same time.

Mr. POTTER. I made that motion to save time, but as it does not seem to answer the purpose I withdraw it.

Mr. MORGAN. Then I will withdraw my motion to indefinitely postpone.

Mr. COFFEEN. A motion to consider shall have precedence of all other motions except to adjourn. I do not wish to take up the time of this convention, as we are already taking up too much time on account of the difficulties interposed by our different construction of the rules. I wish to say, however, that I am in favor of reconsideration for this reason. That I stand with some who have already expressed themselves and desire to amend this section.

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

Mr. PRESIDENT. What is the point of order?

Mr. CAMPBELL. A motion to reconsider is not debatable.

Mr. PRESIDENT. That is the opinion of the chair.

Mr. COFFEEN. Not debatable.

Mr. PRESIDENT. Yes. The question is on the reconsideration of the vote taken by which File No. 58 was passed. All in favor of the motion will say aye, as their names are called; those opposed no. The clerk will call the roll.

Mr. POTTER. I rise to a question of privilege. I wish to explain my vote. I voted with the majority for the adoption of this proposition, and I think the proposition as a whole is a good one, and I do not see myself the necessity for offering

amendments, but I consider it important that we should get our propositions in such shape before final passage that they shall be satisfactory to all members of this convention desiring to vote for the general proposition, so I shall vote in favor of a reconsideration with a view of giving an opportunity for the perfection of this amendment to that extent, so that it will be satisfactory to all of the friends of the proposition.

Mr. PRESIDENT. For the benefit of the members the chair desires to explain. Whenever you vote for a proposition and the vote is in the affirmative, you have adopted that proposition in the opinion of the chair. When it is incorporated into the constitution the constitution comes before the convention for their action. It may be amended, portions of it may be stricken out, or treated in any manner that you please. The adoption of this now is not the final disposition of it in the opinion of the chair. The clerk will proceed with the roll call.

(See journal page 51.)

Mr. TESCHEMACHER. Mr. President.

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

Mr. TESCHEMACHER. It is probably out of order for me to appeal from the decision of the chair at this stage of the game in deciding that a motion to reconsider is not debatable. As I understand it when any matter is not covered by our rules then Cushing's Manual shall apply, and as this subject may come up again, I would like to read a section from the Manual on this question. "On a motion to reconsider the whole subject is as much open for debate as if not discussed at all, and if the motion prevails the subject is again opened for debate." I could not give my reasons for so voting, as the chair ruled that a motion to reconsider was not subject to debate.

Mr. PRESIDENT. Gentlemen, the vote on the motion to reconsider was as follows: Ayes, 18; noes, 21. The motion to reconsider is lost.

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

Mr. POTTER. Before that is acted upon I would like to give a notice.

Mr. RINER. I will withdraw my motion, if it is a notice only.

Mr. POTTER. I give notice that on tomorrow I will move an amendment to Rule 55, by striking out the word proposition and inserting in lieu thereof the words section and article.

Mr. RINER. I now wish to renew my motion.

Mr. REID. Second the motion.

Mr. PRESIDENT. The question is now upon taking a recess until 2 o'clock. All in favor of the motion will say aye; those opposed no. The ayes have it; the convention will take a recess until 2 o'clock.

AFTERNOON SESSION.

Thursday afternoon, Sept. 12th.

Convention reassembled at 2 p. m.

President Brown in the chair.

Mr. PRESIDENT. Convention come to order.

Gentlemen of the convention: A resolution was finally passed yesterday adopting the constitution of the United States. There was no motion to dispose of it after it was passed, and the chair will refer it to the committee on revision, unless there is some other disposition ordered by this convention. It seems to me that all of these matters when once finally adopted should be referred directly to the committee on revision. If there is any other disposition desired by the convention, the chair is ready to conform to any motion that may be made.

Mr. FOX. Would it not be well enough to have it engrossed and then referred to the revision committee?

Mr. PRESIDENT. Unless the convention otherwise order the file reported by the committee on ordinances, No. 20, adopting the constitution of the United States, will be referred to the committee on revision. As there is no other reference requested, it is so referred, Mr. Secretary. I would state to the convention that the proposition that was passed this morning contained a large number of amendments. The amendments that were adopted by the convention have been ordered written out by the engrossing clerk, as a matter of information to the committee on revision. The bill with the amendments and the engrossed copy will be referred to the committee on revision, unless otherwise ordered. Is there objection? The chair hears none, and it will be so referred.

Mr. HOYT. May I suggest that it seems to me that it would be proper that the revision committee, of which I am a member, would simply have the net result and not the details. If these propositions are referred to the revision committee with all the amendments, it might be confusing to the committee?

Mr. PRESIDENT. We have no rule upon that question, and if the convention will make some rule or order in reference to this matter of engrossing, the chair would be glad to have it do so.

Mr. TESCHEMACHER. Mr. President.

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

Mr. TESCHEMACHER. I notice that one of the rules makes the revision committee an enrolling committee. I see no reason at all why we should not also act as an engrossing committee. As chairman of the revision committee, I am perfectly willing to undertake that work, provided the convention desires to have us attend to it. Rule 54, to which I referred, says that the constitution as a whole should be carefully enrolled under the supervision of the revision committee,

and it seems to me that if we are to attend to the revision and enrollment of the different articles that we might as well look after the engrossment.

Mr. BURRITT. If the chair will allow me to make a suggestion. The committee on rules, when this rule 54 was under discussion, fully talked over this matter of engrossment, and it was agreed by that committee that the committee on revision would have to look after this matter of engrossment, and we did not appoint any engrossment committee for the reason that we had no funds to supply an engrossing committee with an engrossment clerk. But now that we have an engrossment clerk to do the work of enrolling and engrossment, it seems to me that it would be well to have it all done under the committee on revision for which the gentleman from Laramie, Mr. Teschemacher, speaks.

Mr. PRESIDENT. The chair will state that hereafter, whenever these propositions have passed, if there is no objection, they will be referred to the committee on revision as an engrossment and enrolling committee, and they will have entire charge of the matter. The chair will understand that all of these matters when finally passed are to go to this committee as fast as adopted.

Gentlemen, in this morning's session, a point of order was raised to a motion to reconsider being debatable. At the time the point was raised, it was the belief of the chair that our rules expressly provided that it should not be debatable, and refused to sustain the point of order. In so doing the chair did an injustice to the gentleman from Sheridan, Mr. Coffeen, and to the gentleman from Laramie, Mr. Teschemacher. The chair desires to apologize for his failure to observe the rules, and asks the pardon of the gentlemen for any wrong committed. It was an error the chair committed in the hurry of the moment.

There are several matters on the general file, for consideration in committee of the whole, and a motion to go into committee of the whole is now in order to consider the general file.

Mr. BURRITT. I move we now go into committee of the whole.

Mr. BAXTER. Second the motion.

Mr. PRESIDENT. Gentlemen, it is moved that we do now go into committee of the whole for the consideration of the general file. All in favor of the motion will say aye; those opposed, no. The ayes have it; the motion prevails. I wish to say by way of explanation at this time, that file No. 57, the file concerning irrigation was reported back to the convention by the committee on irrigation, and as stated by the chairman of the committee, or one of the members of the committee at the time, it was not intended to be incorporated into the constitution in the form that it was reported back, but that it contained suggestions to be considered for that

purpose. It has been placed on the general file and will go before the committee of the whole with that understanding and explanation. Will Mr. Smith of Carbon please take the chair?

Mr. CHAIRMAN. The first matter to be considered by the committee is file No. 57. The clerk will read.

Mr. BROWN. I move to amend section 1 by striking out the words "not heretofore appropriated," in the second line of said section, and by inserting in the third line in said section after the word "to," the words "prior or future." The section if amended in that form would read as follows: "The water of all natural streams, springs, lakes or other collection of still water, is hereby declared to be the property of the state, subject, however, to prior or future appropriations for beneficial uses."

CHAIR. Do I hear a second to the motion?

Mr. CHAPLIN. Second the motion.

CHAIR. Gentlemen, you have heard the amendment; is the committee ready for the question?

Mr. JOHNSTON. Will you please read that again as it should read?

CHAIR. With the amendment, it would read in this way: (Quoted above.)

Mr. BROWN. Mr. Chairman.

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

Mr. BROWN. I believe that we should declare unqualifiedly that the state, or the people of the state are the owners of all the waters in the state, whether they have been acquired by prior appropriation or otherwise. As this bill reads as originally presented, it leaves the people who have appropriated a portion of the water as the absolute owners of it, and the state will declare that they have no ownership whatever to any of the waters that have been heretofore appropriated. If they so declare, it would be utterly impossible for the legislature, or any power of the state, to control, regulate, or in any manner interfere with its use. It is only by the declaration that we are to be the absolute owners of all the water that we may be enabled to control unreservedly the uses to which it may be put.

Mr. CLARK. Mr. Chairman.

Mr. CHAIRMAN. The gentleman from Uinta, Mr. Clark.

Mr. CLARK. I would propose an amendment. I would vote in favor of the word "prior," but it seems to me that the idea of the mover would be equally carried out if the word "future" should be omitted, so that the sentence would read "subject, however, to prior appropriations for beneficial uses." I fail to see any significance in the words "future appropriation." If the water were the property of the state, the state could provide in whatever manner it chose for the future disposition of the rights to water.

Mr. CHAIRMAN. Do I understand you as making that as an amendment?

Mr. CLARK. I am making it as a suggestion to the mover of the amendment.

Mr. JOHNSTON. Mr. Chairman.

Mr. CHAIRMAN. The gentleman from Laramie, Mr. Johnston.

Mr. JOHNSTON. I should like to read a little from the United States statute in regard to this matter. "Whenever by priority of appropriation the possessory rights to the use of water for mining, agricultural or other purposes have passed and accrued, and the same are recognized and acknowledged by local customs, laws and decisions of courts, the possessors and owners of said aforesaid rights shall be maintained and protected in the same, and the right of way for the construction of such ditches, or flumes, as may be necessary, is hereby acknowledged and confirmed." It would seem to me that this would confirm the rights to appropriations already made, and it was for this reason that this bill was worded in the manner that it was.

Mr. FOX. I think this amendment is offered for the reason that if the state claims this water, it should be subject to future appropriation, and I think it proper that it should go in there. I don't think it would be right to declare that all water belongs to the state, and not have it subject to future appropriations, and I think this amendment should go in there.

Mr. CHAIRMAN. Are there any further remarks? If not, the vote will be taken on the amendment as suggested by the gentleman from Albany, Mr. Brown. All in favor of the amendment as offered will say aye; those opposed no. The ayes have it; it is so amended. The clerk will read Sec. 2.

(Reading of Sec. 2.)

Mr. POTTER. Mr. Chairman.

Mr. CHAIRMAN. The gentleman from Laramie, Mr. Potter.

Mr. POTTER. I desire to make a reference to this section, not so much for the reason that I am sure it is right, but to have it discussed. I desire to move that the word "springs" be stricken from the section. I would like to discuss that matter a little.

Mr. CHAIRMAN. The chair will state the motion so as to bring it before the committee. It has been moved and seconded that the word spring be stricken out.

Mr. POTTER. I don't know that the motion is right, but in order to get it before the committee I made the motion. It seems to me that as it now stands it includes a great variety of classes of water that we might not want to include. Would that include mineral or medicinal springs? For instance, I understand that there are some very valuable mineral springs in Carbon county, I don't know anything about them but I am informed that they are there, but would this term springs include them, such springs as them and other springs that do not get into flowing water courses at all. It seems to me that this

is an important matter and we ought to consider it very carefully.

Mr. JOHNSTON. This is intended to cover water starting in the uplands. The court decisions have always ruled that springs that rise on river lands are the property of the owner of the lands until the water flows from and off the land.

Mr. CHAIRMAN. Any further remarks? If not, the question will be on the motion of the gentleman from Laramie, Mr. Potter, to strike out the word spring in the first line.

Mr. CONAWAY. Mr. Chairman.

Mr. CHAIRMAN. The gentleman from Sweetwater, Mr. Coraway.

Mr. CONAWAY. I should like to hear this matter further discussed before we take a vote on it, and I don't feel prepared at the present time to discuss it very intelligently myself. It has occurred to me on what brief consideration I have given this section that we may be claiming more than we are rightly and legally entitled to. I suppose it is true, however, that we cannot lose anything by claiming too much. But I should like to hear the views of those who have given the matter more consideration than I have. There are some considerations, however, to which I will now call attention. It is a doctrine of common law, both in Europe and in this country, that the water naturally flowing upon the land is part and parcel of the land, and title to the land gives title to the water. The United States, as the owner of the public lands, is the owner of the water also, and will our claim as a state to the ownership of all this water not conflict with the rights of the United States and with the rights which settlers on those public lands may claim and may acquire in acquiring title to the land from the United States. Will not the adoption of this provision in our constitution necessitate the prosecution of two kinds of claims upon the part of settlers, one to obtain title to the land and the other to obtain title to the water, and his would apply more forcibly to springs than to running streams upon the land. The rights of riparian proprietors at common law is as familiar as common law itself. The question has been fully discussed and decisions reached by the courts of the different states that the right of a riparian proprietor in running water is at common law that the water should run over his land undisturbed in quantity and unadulterated in quality by any claimant above him upon the stream, and as the United States is the riparian proprietor of the waters upon the public lands, I doubt very much the propriety of changing the rule that when anyone acquires title to the land upon which a spring rises he also acquires by that very fact the spring itself. The spring goes with the land. It always did belong to it, and always will, and do we desire to change that rule? If we think best to do it. I am not prepared to say it is not best to do so. That we have a right to do it I am not prepared to say, and I should like to hear this matter discussed so we may reflect up-

on it, and act more intelligently upon it than I feel prepared to act myself at the present time. I should like to have those who have given the matter consideration to say whether we have the right to make this claim to the waters of all natural streams, lakes, springs, etc., within the borders of our proposed state, and whether if we do make the claim we are not claiming something which does not belong to us, and whether the claim will be valid.

Mr. JOHNSTON. I believe it has been conceded, I know it has, that the states should have the control of the water of the state. If they have control of the waters, why not the source of supply? The question will arise where shall we make this division for the water that lies on the public lands. We will concede that springs on lands that have been taken up and become the property of private holders belong to them, but if the water of the spring has been already appropriated to beneficial uses before the land passes into the possession of a private holder, I claim that water belongs to the party who first put it to use, provided he uses it without loss.

Mr. POTTER. With reference to a part of this matter, I think perhaps we will have no difficulty in arriving at a conclusion. While it is true, as Judge Conaway remarks, that at common law, the riparian owner has a right to the water that passes over his premises, or by his premises, in some of the western states that rule has been changed by decisions of the courts on the ground that in the existing condition of things, that it was necessary it should be changed, and holding that there is no such thing as riparian ownership to the water, but that a person can get an interest in that water by a prior appropriation. So far as it has been passed upon in this territory I believe that has been the decision of the courts in reference to riparian ownership here. They have had a great deal of difficulty about the matter in California, owing to a lack of expression in regard to the matter in their constitution. I am very much in favor of the right to appropriate water for irrigation and domestic uses as opposed to the riparian ownership theory, but I don't think we ought to interfere or attempt to interfere in our constitution with the right to water that does not become flowing streams, and perhaps some kind of springs, such as I have mentioned in Carbon county. Whether this would have the effect of doing that, I do not know. It is a new question with me, as it is with most of the convention, and the way I feel about it now I hardly feel as if I was well enough informed to vote intelligently.

Mr. BROWN. I have been a good deal perplexed with my friend from Laramie, Mr. Potter, as to just what should be done with this matter of springs. The rule as to riparian owners has been correctly stated by the gentleman from Sweetwater, Mr. Conaway, as to running streams, and that rule goes so far as to apply to all springs from which water passes across land to adjacent lands, no matter how large or how small the

spring may be. But where the water does not pass from the spring across the land of the owner, it places it in a somewhat different situation, because there is no riparian owner except the man who owns the particular tract of land upon which the spring is situated. But something has been said about appropriating the water in springs and streams that are situated upon the public domain. It has been decided by the supreme court of the state of Nevada that no right to water can be acquired by any person settling lands belonging to the United States. They may have the use of the water as provided by the law of the United States, but that is to the utmost that anyone can go in making any appropriation of such waters. Now, we declare here that the state of Wyoming shall be the owner of all the water within its limits. Of course, we can do that only to such water as is situated upon land belonging to the citizens of the state, and as the title of the United States passes to the citizen who settles upon the public lands, the title to the water will also pass under the control of the legislative power of the state, under this declaration, but just how far we may go in our demands as to this matter is a question that I have not investigated, and I doubt whether there is any gentleman upon this floor who has sufficiently investigated the matter to say on his conscience what we shall do in reference to it. I therefore move, Mr. Chairman, that we report back this bill to the convention, and ask leave to sit again on the same matter contained in this file.

Mr. HOLDEN. Second the motion.

Mr. BURRITT. Mr. Chairman.

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

Mr. BURRITT. I hope that this motion will not be passed at this time, but that we be allowed to pass on with this file sufficiently far to reach the state board of control, which, as I understand it, is a still more radical change, and a more difficult subject perhaps to wrestle with than the one just passed. It reverses the present system. We have a document here to show to the convention the evils of our present irrigation system, and the organization of the state board of control proposes to reverse that system. It has its objections, perhaps, but the committee are anxious to hear from the gentlemen present and get their views on the matter.

Mr. BROWN. With the consent of my second I will withdraw the motion made.

Mr. POTTER. I think inasmuch as we are not any of us hardly prepared to vote upon the question, I think, Mr. Chairman, it would be a good idea to withdraw the motion.

Mr. CHAIRMAN. The mover of the motion asks to withdraw the motion. Is there objection? The chair hears no objection and the motion is withdrawn. The secretary will read Sec. 2.

(Reading of Sec. 2.)

Mr. FOX. Mr. Chairman.

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

Mr. FOX. I have an addition to the bill which I think should be incorporated and should come in as Sec. 2, and the following sections of the bill to be numbered one number higher. What I propose to this bill is this: "All persons, companies or corporations taking or diverting water from its natural course, shall be, and are hereby declared to be common carriers."

My object in presenting this section is to protect honest and poor settlers who want to settle on the public lands, situated along what we term railroad grant lands.

Mr. CHAIRMAN. Do you offer that as an additional section to be known as section 2?

Mr. FOX. Yes.

Mr. SUTHERLAND. Second the motion.

Mr. CHAIRMAN. The committee has heard the reading of the section offered by Mr. Fox to be inserted in this file as section 2. That would, of course, necessitate the changing of the numbers of the other sections. Is the committee ready for the question?

Mr. HAY. Mr. Chairman.

Mr. CHAIRMAN. The gentleman from Laramie, Mr. Hay. I think there is one change that ought to be made in that amendment. I don't think that all irrigating ditches should be declared common carriers. If I take out a ditch on my own land, for my own use, for the particular purpose of irrigating my own property, and don't expect or want to sell the water, I think that ditch should not be designated as a common carrier, and I be compelled to sell that water whether I want to or not. If I had land enough to use it, and have no desire to sell the water, I don't see why I should be compelled to, and I don't think ditches constructed for private uses ought to be common carriers.

Mr. JOHNSTON. I would object to the addition of that clause, as I think it comes under the head of legislation. I think it is not necessary to make this so voluminous, and we ought to leave the settlement of these minor points to our legislature. The clause just introduced by the gentleman from Albany, is already on our statute books, and is recognized, I think by everyone as a just one.

Mr. CHAIRMAN. Are there any further remarks? If not the question is on the adoption of the amendment offered to insert this section 2 by the gentleman from Albany, Mr. Fox.

Mr. CLARK. Mr. Chairman.

Mr. CHAIRMAN. The gentleman from Uinta, Mr. Clark.

Mr. CLARK. I believe that the object intended to be reached by the gentleman is a proper one, but I do not think he has made a happy choice of terms in regard to this section. I therefore move that when this committee arise, it report it back to the convention with the recommendation

that it be referred to this committee on irrigation, for the purpose of framing a section to cover this question.

Mr. BROWN. Second the motion.

Mr. CHAIRMAN. It is moved and seconded that the proposition offered by the gentleman from Albany, Mr. Fox, be referred to the committee on irrigation, in order that they may put it in proper shape. Is the committee ready for the question?

Mr. FOX. Mr. Chairman.

Mr. CHAIRMAN. The gentleman from Albany, Mr. Fox,
Mr. FOX. I would like to have this referred to the committee on irrigation for I think it is a very important thing that it should be in the constitution. For instance, a number of persons, or a corporation may organize a strong company to take out nearly all the water in a stream, convey it across the prairie, and without having use for this water themselves, will prevent the settlers who may want to settle on the public lands from obtaining water out of this canal unless they buy water from this company or buy the railroad lands, and I think that if a company has the right to take this water from its regular channel and put it where it can not be used, that settlers should have the right to the use of the water so long as there is a surplus, at any rate. I hope this will be referred to this committee, and that they will consider the proposition seriously in their report.

Mr. CHAIRMAN. The question is on the motion to refer this section proposed by Mr. Fox to the committee, for the purpose of getting the language in better shape. Are you ready for the question?

Mr. BROWN. I rise to make a remark at this time not to debate the question at all, but simply to make a suggestion that it may be considered by the committee on irrigation, when this matter is again before them. We have in this country what is called railroad lands, every alternate sections belonging to the railroad company, the other to the government. Now, a big company may be formed for the purpose of taking out water to irrigate lands which they own themselves, that is, the railroad lands. The ditch may be carried for a distance of thirty or forty miles over lands part of which belong to the United States, and are open to settlement by its citizens, but the company taking out this ditch and the water to use on their own lands, carries it past these government lands. Now, supposing a settler who desires to make an entry on the land belonging to the government wants some of that water, and the company refuses to sell any portion of that water, although they take the entire stream from its bed, to any man who desires to settle upon a portion of the public lands of the United States. What are you going to do about it? This section offered by my friend from Albany, Mr. Fox is intended in some way to reach this evil, if possible, and I now speak of it, in order that the committee on irriga-

tion may consider it when it comes before them for action, as it is a matter of great importance to many people in the territory.

Mr. CHAIRMAN. The question is on the motion to refer this proposition to the committee on irrigation. Those in favor of the motion will please say aye; those opposed, no. The ayes have it and it is ordered referred to the committee on irrigation. The clerk will read the next section.

(Reading of section 2.)

Mr. BURRITT. I move that section 2 be stricken out.

Mr. CONAWAY. Second the motion.

Mr. CHAIRMAN. It is moved and seconded that section 2 be stricken out. Are you ready for the question?

Mr. BURRITT. Mr. Chairman, as the authorized representative of the committee on irrigation, I desire to lay before the convention some of the considerations which have been laid before our committee, which have influenced us to a great degree to make this extraordinary report. I have in my hand a paper prepared by the territorial engineer, Prof. Mead, treating upon this subject, and showing very conclusively what is the trouble with our present irrigation system, which is the exact direct opposite to the one proposed by this bill, and as introductory to, and supplementary to that report I desire to call the attention to a few figures in relation to a few ditches taken from Horse creek and its tributaries, a creek, the water of which has been diverted and the appropriation decided by the district court of this district.

Horse Creek Live Stock company ditch, 160 acres, two cubic feet. That is 80 acres of land to a cubic foot of water per second of time. Carey Horse Creek ditch No. 7, 140 acres, seven cubic feet of water, or a cubic foot of water for every twenty acres. Going on down we come to Carey Horse Creek ditch No. 8, 190 acres, with twenty cubic feet of water for the appropriation there. Then there is the McLoughlin ditch, covering 100 acres, with an appropriation of two cubic feet of water; that would be about one cubic foot of water to 50 acres. There are others still more out of proportion than these I have quoted here, but, gentlemen of the convention, that is the decree of the district court for the first judicial district of Wyoming, sitting in Cheyenne, on the appropriation of water from Horse creek. It runs all the way from a foot to 15 acres to twenty feet to 150 to 200 acres. Now in the ordinary condition of things it is an almost universal rule that one cubic foot of water per second of time will do service for 50 or 60 acres. It has been fully demonstrated, I think, that we have got this thing wrong end to, that we have got the cart before the horse, in submitting a matter to the court about which they have no knowledge, officially or practically, and to enable it to get any knowledge it would have to spend a series of years in studying the question, and then when the decree is made, find that it had not diverted the water according to the use that

it was required to be put to. I desire to read you Prof. Mead's report on this subject.

(Prof. Mead's report.)

The committee on Irrigation simply bring in this report for the information of the Committee.

Mr. HAY. I move when this Committee arise they report back this file with the recommendation that the whole file be reported back to the Committee on Irrigation.

Mr. BURRITT. I would like to make an amendment before that is done. I desire to amend section five by inserting between the words "state" and "engineer" the word hydraulic.

Mr. JOHNSTON. I desire to state that in the original bill creating the office of state engineer, it was drafted "State Hydraulic Engineer." There were very serious objections raised to it on the ground that it might prevent him from performing any other duties in connection with those that he might perform in the engineering line, and that he should be called the state engineer and that would include all the duties which might come within his office. That was the objection to the original draft of the bill creating that office.

Mr. CHAIRMAN. All in favor of the motion will say aye; those opposed no. The noes have it; the motion is lost.

Mr. FOX. I would suggest that when this is referred back to the committee that the words "and such other duties as may be prescribed by law" be added to the section, for this reason. We do not expect the engineer to do anything that is not in the line of his official duty, but circumstances might arise whereby the engineer of this state would be required to attend conventions in an adjoining state, and the legislature might direct him to do this, and under this law, might say it was not his duty without extra pay, and I think all of that kind of things ought to be a part of his duty if the legislature required that he should be required to do it.

Mr. HAY. I wish to insist upon my motion to refer this file on irrigation back to the irrigation committee.

Mr. CHAIRMAN. The question is on a motion to refer File 51, on irrigation, back to the irrigation committee. Are you ready for the question? All in favor of the motion will say aye; contrary no; the ayes have it; it is so referred. The gentlemen can make all of these suggestions to the committee. The next thing on the general file is the substitute for Files 19 and 22, county organization. The clerk will read Sec. 1. Any amendments to Sec. 1? The chair hears none. Sec. 2.

Mr. CAMPBELL. In the fourth line between the words "two" and "millions" there should be inserted the words "five hundred thousand," making it read "two million five hundred thousand."

Mr. POTTER. I would amend the amendment by striking out the word "two" and inserting the word "three," so it will read "three million."

Mr. CHAIRMAN. Gentlemen, you have heard the amendment to the amendment. Are you ready for the question?

Mr. COFFEEN. I am not ready for the question until it is discussed. I come from a county that is one of the newest in the sisterhood, and is in today perhaps as good, if not better, financial condition than any county in the territory, and by these provisions, as they now stand, it would have been impossible to have secured an organization of Sheridan county, for we have not even now two millions of taxable property, according to the last assessment in our county, and therefore I am opposed to increasing and heaping up difficulties in the way of organizing new counties, by making the assessable valuation of taxable property too high. The greatest difficulty in the management of counties is the necessary use of funds, but a taxation on two millions of taxable property or valuation will give more funds than is needed for the proper running of, ordinarily, any counties that will be organized, if they are conducted on an economical and proper basis; we were organized with an assessable property valuation of not over a quarter of a million, and have gotten along very well, and are doing well now, and expect to prosper, understanding our own affairs very well. This with only a quarter of a million taxable valuation. Then again, I wish to call the attention of the delegates who all favor the more rapid development of this territory, and to ask you to consider two or three things. In the first place you are seeking statehood because by the local government of your affairs you can more advantageously manage your own affairs, and I agree with you there, but will you deny to those communities and districts who desire on a less amount to begin business and set up for themselves, local government, upon the very same principle on which we are seeking statehood? Is it not the best policy, is it not best in the benefit of our resources to facilitate the organization of new counties, that you fix this so that counties having enough taxable property as is sufficient for an economical home management, may organize, when they so desire, and I hold that but one-half of two millions is plenty for any new county to start upon with careful management.

Mr. RINER. In what condition did it leave Johnson county?

Mr. CAMPBELL. If Sheridan county is in such a prosperous condition, why is it their warrants are selling at such a discount today?

Mr. COFFEEN. Provided we can properly discuss it, I shall hold myself in readiness to explain.

Mr. POTTER. I think with the gentleman from Sheridan so far as Sheridan county is concerned, it has done very well indeed. I know that that county has got along very nicely, but I believe also that it is possibly almost a solitary exception. They have conducted their affairs in a very economical manner, and if it had been done otherwise, if it had been nec-

essary for them to have had any unusual expense, if they had had any term of the district court there, within a year of their organization, they would have found themselves without the power to keep themselves free from debt. Under other circumstances, although I say it is a county that is going to grow, and they have conducted their concerns so economically, they could not have kept themselves out of debt. Now in the very next county, with a taxable valuation of one million seven hundred thousand, not two millions, they tell me, those who are acquainted with the affairs of that county, that it is almost impossible for them to exist and keep out of debt, and that instead of getting out of debt the chances are that they will become deeper and deeper involved. Now, as we well know, I think there are great theories concerning the organization of new counties, have grown up in every state. The desire is to form new counties, and you will find in some of the more thickly settled states, counties that you can almost step across, so I think we want to place some proper safeguards about this. I have no desire to hamper the organization of new counties, beyond that which is absolutely necessary; that is all, and I only want to fix a minimum in this constitution that will make it absolutely safe for a new county to organize. That is the only wish I have; nothing else in the world.

I believe in the organization of new counties, but I don't believe that we ought to have them organized unless they can do so safely. I believe in their organization because it gives them greater privileges, that they can transact public business to much greater advantage, and it seemed to me that with the experience of most of the counties of the territory that two millions was too low. It may be that my colleague, Mr. McCandlish, has fixed the right sum, that three million is too high. I am rather inclined to think that two millions and a half is the correct amount. And on this same matter I think we ought to make a greater concession to the old counties than is in this bill. However, that is not a proper motion to make at this time. With our present experience I don't believe we can say that a new county can safely take upon itself local government and get along on two millions assessable valuation.

Mr. HARVEY. I agree very heartily with the gentleman from Sheridan. We in the north squeal from very bitter experience on this subject. We have learned to our entire satisfaction the difficulties of being two hundred miles from the county seat. We realize very keenly the hardship of being deprived practically of local self government, and we think this ought to be reduced so that counties may be organized when the people desire it. I for one know that I would never have lived in central Wyoming for three years had I anticipated the experience that I have had. Our county seat was over a hundred miles from us. I know the gentleman from the proposed county of Natrona is not here, but I know that his people are

in precisely the same situation that we were, they are having an experience which you cannot appreciate. They have no self government, they have no district court, they have nothing. They are living under a justice of the peace, nothing better. I say, gentlemen, give them every opportunity in the world to organize new counties—give the people of this territory a chance. Converse county today is doing very nicely on an assessed valuation of but little over two million, it does very well indeed, and they have local self government, and we take some pride in it. I ask you, gentlemen, to put this as low as you can, and give the newer portions a chance. I think two is about the proper amount.

Mr. CAMPBELL. I was in Fremont county at the time the board of county commissioners made their assessed valuation, and it was \$1,800,000.00. Now I know from sad experience, because I received one of them, what Fremont county warrants are worth, they were selling at ninety-three and ninety-five, and that on an assessed valuation of \$1,800,000. In Converse county, with an assessed valuation, as I understand, of two million, will the gentleman deny that today they have not a cent to put up a bridge across a creek in Converse county—no funds out of which to build roads. If I am incorrect I hope some gentleman will correct me. Now we know in Johnson county the taking off of Sheridan county paralyzed that county. There is no question about it. In answer to my friend from Sheridan, it is well known that the county commissioners have not done their duty to the people of Sheridan county since it was organized. They have refused to call a court. There was a person in jail there in Sheridan county awaiting trial, and yet the county commissioners refused to call a court, and refused to call Judge Sauffy to try this man, and I say it was not until a threat came from the present judge that they concluded to call a court in Sheridan county; and I would further answer the gentleman from Sheridan that they have no public buildings there whatever, they have no court house, they have not got a jail, not any public building whatever, and they might well say that they have kept their expenses down. If they had a term of court, or put up a court house or a jail, as they should, which is not really anything but a log cabin, there is no telling where the expenses of Sheridan county would come to.

Mr. MORGAN. I am very well satisfied that an assessed valuation of two million dollars is a sufficient amount of assessable property to provide for the wants of a new county. Of course in a new county they would not have a good deal of the expenses that we have in the more populous and more wealthy counties. It is a question for the people themselves to settle. An assessed valuation of two millions at three per cent would be sixty thousand dollars per annum. Give them local self government and if they don't with sixty thousand dollars build a court house it is their own fault. They could

build a court house, and if they don't build it on sixty thousand dollars they can do like other counties, they can go and issue bonds and build it. It is their own business. I believe in the organization of new counties, it is a help and a benefit for the territory to give them self government.

Mr. COFFEEN. Mr. Chairman. I will begin by meeting some of the arguments in this case. There has been reference made to the warrants of our county, to the condition of our county and to our public buildings, and I fear, gentlemen of the convention, that some of you in your anxiety to treat this question fairly, and as best may be done, might be misled by these things, if I did not make reply. The last warrant that I disposed of I obtained ninety-five for. Our warrants then are in good condition. We are not suffering on that score in any manner whatever. That is a sound reply on the credit of the county. We are told that our county has been so careless in that she has refused to call a term of court. Let me tell you, my friends, that it is a matter of some pride to me, and of chagrin to some of you by contrast, that Sheridan county at the time I left there had no criminal in its jail, and has not had since we have had an existence as a county. I am proud of the fact. There have been two persons for misdemeanor incarcerated in the jail. Small offences, for a few days. Then again the statement was made that we had no jail, or if we did have any it was a log cabin. We have a steel lined jail, and will hold every criminal of Laramie county that ever happens to get behind it. It is one of the best in the territory. Since I came away I think there has been one man incarcerated, or he has given bail, and we shall therefore need a term of the district court, and our commissioners have called one since I came away. Now, I wish to make an argument in favor of the organization of new counties. Much of the expense to which large counties are placed or put comes from the fact that the mileage and the seeking after criminals, the notification of witnesses and all those things, multiplies the expense very much, while in a small and more compact community a great deal of this expense is saved. That is one source of economy, and I want it understood that it is an argument in favor of the formation of new counties, and taking it all in all lessens the expense. Some say that it multiplies the officials, that it requires two sets instead of one, but I say by what you can save in the way I have just mentioned, you can almost pay the compensation of our officials. I think that you will make a great mistake in this convention, if you bind them hand and foot, as it will, by a too high assessed valuation being required, before they can organize a new county, and a too high population. I should much prefer to see it as low as a million and a half, and I would much prefer to have the requisite population cut down to one thousand. Why two per cent on two million will be forty thousand dollars, and in our own county,

we have a good deal less than that to conduct our own affairs. We to-day, here as a convention, are considering whether or not we cannot reduce the salaries and fees on which we can run an economical state administration, and we must do it, and we must go before congress with that in view, as well as the people, for they will consider it. We must provide for this, if we expect to go before the people for ratification and expect them to take favorable action upon this constitution. All the arguments that will be made in favor of our admission as a state in the house of congress, are the very arguments that I would offer you in behalf of the organization of new counties.

Mr. HAY. I would like to ask Mr. Coffeen what was the last levy of taxes in Sheridan county.

Mr. COFFEEN. I do not know the figures exactly, but I think last year the levy was two or three per cent. I ran over it very hastily, but I think excluding school taxes and territorial taxes, that it was less than two per cent.

Mr. HAY. I cannot see any reason why this amount should be raised. It seems to me that the levy in a new county of three or even four would not be excessive. Most of us have had to stand it here for twenty years, and stood it pretty well, and it won't take as much to run a county as it did in the past for we hope to cut the salaries of these county officials in this constitution. I don't see any reason why we should raise this above two million.

Mr. FRANK. Crook county has been organized for about three years and the assessed valuation this year is only two million and a quarter, and we find ourselves in debt in the sum of \$70,000 to-day, and if our county is divided at all it will not enrich the one part at all, but will make us still poorer indeed. I am in favor of leaving the limit at least two million and a half.

Mr. ELLIOTT. It will be remembered perhaps by some of the members of this body that to the last legislature I made an appeal on behalf of the people of Johnson county. The gentleman who sits on my left was a member of that body. It was proposed to divide that county at that time. I allude to the portion that was proposed to be left, and I assure you that we were left. My appeal was made upon the ground that the people of the old county had some rights which the legislature was bound to respect, and the result to our county has shown that my appeal was a good one. They left us as we estimate it, with two millions of taxable property; the property has decreased since that time, but even with that two millions of taxable property I may say that our condition has really been pitiable. There has been time after time when the banks have refused to receive our warrants for any sum whatever. Nearly every public improvement has been stopped. The building of bridges, absolutely necessary in the spring, have been required to be paid for in advance; roads needing repairing have gone with-

out repairing. Our taxes have been put up to the highest possible notch today, and at the last election we were obliged to come together as a people, without consideration of party, and get two of our business men, who did not wish to hold office, to take hold of the affairs of our county in order that we might, if possible, put ourselves in a position where we could again be self supporting. I am not opposed to the organization of new counties, but this thing of taking a new county starting off without any expense, being taken as a criterion as to what the valuation should be, is to my mind a mistake. Now the county of Sheridan has been referred to. The county of Sheridan has done remarkably well. But I will call the attention of the gentleman from Sheridan to the fact that that portion of old Johnson county was amply supplied with roads and bridges; every foot of roads and bridges that Sheridan county now boasts was done by the old county of Johnson. Two-thirds of the work that was done in the old county was done in what is now included in the limits of Sheridan county. And so far as that matter is concerned it has had no work to do. It has also been stated that they have had no term of court, that they needed no term of court. It is true that they have had but little crime to necessitate the holding of a term of court, but I will call the attention of the gentleman to the fact that shortly after the organization of that county, when the election was still in doubt, there was a murder committed in the town of Dayton. I had that man indicted in the Johnson county court; the offense took place in the county of Sheridan, and up to the present time they have held no term of the court to try that man. When Sheridan county shall have had a little more crime, has had a few terms of court, I think it may be that the gentleman will not think that two millions is sufficient to run a county on. I believe with the gentleman from Laramie that two millions and a half assessable property is the very least, and I should like to see it higher.

Mr. BURRITT. I would like to ask the gentleman from Sheridan how they manage to levy for county purposes such a tax as he informed Mr. Hay, when the laws of Wyoming restrict the levy for all purposes, county and territorial, to sixteen mills on the dollar.

Mr. CHAIRMAN. That is hardly to the question.

Mr. CAMPBELL. I will simply state in reference to what I said about Sheridan county was based upon what Judge Saufley told me; that there was business in Sheridan county, but that the county commissioners had refused to call a term of court, and that he had notified them that unless they did call a term of court to try civil and criminal cases, that he would go up to Sheridan county himself in July. There is another thing we should consider, Mr. President, in relation to the creation of new counties, and that is the fact that in a county they may suddenly come into a large amount of taxable property, and the people want to organize a new coun-

ty. Take the county of Crook for instance, they have a large bed of coal, the value of taxable property increases, they organize a new county. Suppose that the coal should play out, as it did on the Oregon Short Line, and after the coal is gone it is no good whatever, and the people all go away and there is no population or taxable property, what is to become of that county, with all the expenses, all the taxation caused by reason of the creation of a new county. I will say to the convention that I am not in favor of three millions, I think two millions is a very conservative amount to place in this constitution.

Mr. HARVEY. We are on the supposition that Wyoming is going to be a great state, that she is going to develop. If she is not we had better go home today. I submit to this convention that if Wyoming, unless every county in the territory is going to proceed to develop immediately, there is no occasion for a constitutional convention. If any of you gentlemen think that any county organized in this territory is going to depreciate in value, that its taxable property is going to diminish, then we had better go home. I say to you give these new sections a chance, two millions is enough for a new county. It is not sufficient to build a magnificent court house, Converse county has none, and don't want one. We are content to have local self government, to have a district court to appeal to, to be relieved from the dominion of a justice of the peace. We can get along without a court house, and such expenses as those. We came into this country to work, to help her develop, and become a great state, we have labored just as much, just as hard and earnestly as any of you, but I say to you give us a chance, don't put us at work in the harness and keep us there because unfortunately we are not wealthy, but give us a chance to become wealthy. I plead for the sections that need protection, that need development: this county is perhaps developed, but Wyoming is not developed. Give the newer portions a chance. Two millions is a small amount, but I say it is enough to run a new county with, and they ought to be allowed to attempt it.

Mr. COFFEEN. I will confine myself to the things that have been stated. I said something about the levy in our county being less than two per cent, that it did not exceed two per cent, and if the levy is limited to sixteen, my conviction is that Sheridan county will abide by the law as faithfully as any other county in the state. In reply to my friend from Johnson county who has engaged most heartily in that hard battle that has been fought between the new county and the old for so long, I will say in reply to him about what he calls a cold blooded murder. While we were yet in the old county of Johnson there was a death one day at Dayton, and which is called a cold blooded murder. But so far from being a cold blooded murder, my conviction is that it was one of those cases where the welfare of the best citizens of the territory seemed to demand the taking of things in their own hands, and to rid themselves of a man who was threatening the peace and welfare and safety

of the town, and it was only in self defense. I know the parties well, but of course that is only a difference of opinion. As to what the gentleman from Laramie has said about our not having any courts, I cannot say what his information was, but all I can do here is to come before you and state as one of your fellow citizens that I do not know of any criminal needing trial in Sheridan county from the date of our organization to the time I started for this convention, that is all I can say, and I think the gentleman was misinformed, and I trust his information shall not lead you into any error.

Mr. FRANK. I agree with the gentleman from Converse that two millions assessed valuation is enough for a new county but how is it going to leave the old county. Two millions is not enough to leave for the old county with perhaps an indebtedness of a large amount. We have to take those things into consideration. While this may be enough to start a new county it is not enough to leave the old.

Mr. CHAIRMAN. The question is on the amendment to the amendment; to strike out "two" and insert "three;" are you ready for the question? All in favor of the motion will say aye; contrary no; the noes have it; the amendment is lost. The question is now on the amendment offered by the gentleman from Laramie, to insert after the word "millions" the words "five hundred thousand;" all in favor of the motion will say aye; contrary no; the noes have it; the motion is lost. The question now recurs on the original section fixing the amount at two millions; are you ready for the question? All in favor of the motion will say aye; contrary no; the ayes have it; it is so ordered.

Mr. IRVINE. I desire to amend Sec. 2 in the sixth line, by striking out the words "an equal or greater" and inserting the words "of at least three million of dollars of assessable valuation."

Mr. CHAIRMAN. Gentlemen, you have heard the motion; are you ready for the question? All in favor of the amendment will say aye; contrary no; the ayes have it; it is so amended.

Mr. POTTER. I have an amendment to offer to Sec. 2. "No county shall be divided unless a majority of the qualified electors of the territory proposed to be cut off, voting on the proposition, shall vote in favor of the division."

Mr. COFFEEN. I dislike to find myself so thoroughly in opposition to the honorable gentleman and delegate from Laramie county, but that is a question that the legislature can provide for better than we can here. There is not the slightest danger that any new county will be cut off if the majority within it are not in favor of it. There is no danger on that score. Let us not limit the legislative power in that respect, but leave our legislature free to act on that point.

Mr. CAMPBELL. The great danger of leaving a question of this kind to the legislature is simply this. Here we have a legislature, some members of whom are likely to want a special

piece of legislation passed by the legislature. Here is some person who is opposed to this particular piece of legislation, and they want a new county organization, and that by a little urging they can get the legislature to remedy this matter of the organization of counties, and on the petition of two or three hundred taxpayers within that county, a new county shall be formed. Now this will take away the temptation and the power to do anything of that kind. Under the laws of this territory, the legislature has provided that when three hundred taxpayers in the county petition the governor that thereupon the governor shall organize the new county. Take it in relation to our laws governing municipal corporations. It is a most infamous piece of legislation, putting it in the power of thirty citizens to organize a municipal corporation when there may be two thousand in that municipal corporation who don't want one. Now, I say that it is only fair that the persons living in the territory to be cut off should have the right of deciding whether they shall assume this burden, and not leave it absolutely within the power of any minority to do it. It is a good old democratic doctrine that the majority should rule. In any event, take away from the legislature the power to allow the minority to put the burden upon the majority when they don't want to assume it.

Mr. BROWN. I am not opposed to the proposition stated in this amendment, but I believe that it is a matter that can be most wisely left to the control of the legislature. Whatever it may be necessary for them to do in establishing new counties, they can best judge when the time comes for the establishment of them, and if in their wisdom it should seem best to provide that the people of the county should vote upon that question before a new one can be organized, then I think we can trust to them to determine how and in what manner that shall be done. We start out here by fixing a limit upon the legislature. A great deal has been said about the amount of money, the valuation of the taxable property of the new county, and in the old county. We don't propose to provide by the terms of this constitution that a greater amount shall not be required by the legislature, we simply say that a less amount shall not be—that is all. So place that limitation upon their action, and we say here that a new county shall have two millions of taxable property, but the legislature in its wisdom under this very part of the constitution, may fix it at three or four millions. They are not limited in that direction. We only say that it shall not be less. We start out in this section two by saying that the "legislature shall provide by general law for organizing new county seats, changing county lines, etc." We start out in this section that the legislature shall do something, and before we get through with all these amendments, if they are adopted, we will settle the whole question ourselves, and leave nothing to the legislature whatever. I believe in the legislatures of Wyoming, and I

say to the gentlemen here that when the legislature provided that a few men could establish a county by petition, it was wise legislation and the history of our territory proves it. I remember a few years ago that the people of Johnson county undertook to form a new county and they had very hard work to get the necessary number of petitioners under that law. I have no word of disparagement to say of Johnson county. I believe she is doing well, and I know that Sheridan county is doing well.

Mr. HARVEY. We in Converse county have been recently taken out of the woods and that explains our sympathy for those who are at present in the woods, and may want to come in. I merely wish to put this question to you fairly. Does any man think that any new county would be organized if the old county has to consent? How many would be organized in the next ten years? How many will cut down their taxable property, and increase their taxes for the benefit of somebody in the other end of the county? It is not human nature. Gentlemen, make it possible to organize new counties.

Mr. POTTER. The strongest objection to this section seems to be that we will never have any new counties. Now that is not history. History does not teach it. Kansas has precisely this same provision. North Dakota has it; Illinois has precisely the same thing in its constitution. I think that you will find that the majority of states west of the Mississippi river have precisely this same provision in them.

Mr. CHAIRMAN. The question is on the amendment as offered by Mr. Potter. All in favor of the motion will say aye; contrary, no; the chair is in doubt. All in favor of the motion will rise—19, Mr. Chairman. Those opposed, no—18, Mr. Chairman. The motion is lost.

Mr. BURDICK. Is not every member obliged to vote? I call for Mr. Ferris' vote.

Mr. TESCHEMACHER. I think a member is not required to vote in committee of the whole, that rule applies in convention.

Mr. POTTER. The chair incorrectly announced the result of the vote. I appeal from the decision of the chair that the motion was lost.

Mr. CHAIRMAN. The question is on the appeal; shall the decision of the chair be sustained? All in favor of the motion will say aye; contrary no; the chair is in doubt; all in favor of the decision of the chair being sustained will rise and stand until counted—20; those opposed—18; the decision of the chair is sustained.

Mr. RINER. I move this committee now rise and report. All in favor of the motion will say aye; contrary no; the ayes have it; the committee will rise and report.

(Report of committee of the whole.)

Mr. RINER. I move the report be adopted.

Mr. PRESIDENT. All in favor of the motion will say aye;

contrary no; the ayes have it; the report of the committee is adopted.

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

Mr. PRESIDENT. All in favor of the motion will say aye; contrary no; the ayes have it; the convention will adjourn until 9 o'clock tomorrow morning.

ELEVENTH DAY.

MORNING SESSION.

Friday, Sept. 13, 1889.

Mr. PRESIDENT. The convention will come to order.

Roll call. Thirty-two members present.

Reading of the journal.

Reports of standing committees.

Presentation of propositions.

Mr. CAMPBELL. Before any further business is taken up I desire to move that the report of suffrage be made special order for Tuesday morning of next week.

Mr. PRESIDENT. Gentlemen, you have heard the motion that the report on suffrage be made special order for Tuesday morning of next week; are you ready for the question; all in favor of the motion will say aye; contrary no; the ayes have it; the motion prevails.

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

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

Mr. CHAIRMAN. Gentlemen of the committee, the first matter on the general file for consideration is the substitute for Files 19 and 22. When the committee arose we were considering Mr. Potter's amendment.

Mr. JEFFREY. I move the amendment be adopted.

Mr. COFFEEN. I call for the reading of the amendment.

Mr. CHAIRMAN. The amendment reads as follows: "No county shall be divided unless a majority of the qualified electors of the territory proposed to be cut off voting on the proposition shall vote in favor of the division."

Mr. COFFEEN. My only objection to this proposition is that it fixes and limits the manner of holding any election to determine that question, instead of leaving it to the legislature to determine by petition for election or in such other manner as they may deem wise to fix. I have no objection to the prin-