

# Will Congress Choose Or Elect President?

## Analysis of Situation Made by Political Sage.

### Grave Possibility of Such a Necessity if Three Big Candidates Are in Field. If None Gets Majority House Must Decide—If It Fail Then Senate May Pick the Victor—Interesting and Picturesque Procedure That Would Be Followed.

BY JOHN ELMRETH WATKINS.

**M**EN renowned for their political sagacity are free with their predictions that a triangular fight for the Presidency this Fall will throw the coming Presidential election into the hands of Representatives. Whether an alarmist view or not, this is one worthy of analysis at this time.

The electoral vote will be counted before a joint session of Congress at 1 P. M., on the second Wednesday of February next. The total electoral vote in this campaign will be 531 and a majority necessary to a choice will be 266.

The Constitution provides that "if no person has such majority, then from the persons having the highest numbers, not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President the vote shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states and the majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them before the 4th day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President."

**Senate Would Choose V. F.**  
But it is reasonably certain that no Vice-Presidential candidate will get a majority, if no Presidential nominee receives one. So what is to be done in such an event?

The Constitution is clear on this point. The election of the Vice-President would be thrown into the Senate, instead of the House, and the Senate would have to make final choice between not the three, but the two candidates receiving the highest number of electoral votes. The election of the Vice-President is further simplified by the absence of constitutional restriction as to Senators voting "by states." They can use their individual preferences and having only two men to choose from one candidate would appear sure to receive a majority. This majority, however, would have to be a majority of the whole number of Senators, two-thirds of whom would be necessary to constitute a quorum to do business.

**Deadlock Seems Assured.**  
The Congress which would decide the election under such circumstances is that now in session. And, as stated, the vote of the House would be by states and not by individual members, each state having one vote dictated by the majority of its representatives.

A fact most interesting, indeed, to relate is that in the present House the political division by states is exactly equal, although there are 22 Democrats and only 161 Republican Representatives. Yet there are 22 state delegations in which the Republicans have a majority and the same number, 22, in which the Democrats have a majority. In addition, there are four states, holding the balance of power, each tied with an equal number of Republican and Democratic Representatives. These are Maine, Rhode Island, Nebraska and New Mexico. In these estimates all members who recorded themselves as Republicans when elected to Congress are included in the Republican column. The deadlock would appear to be assured were the election thrown into the House. The successful candidate would have to obtain the votes of at least 25 states. If the election were thrown into the Senate, however, as it is, the Democrats have but 22, as have the Republicans—regular and progressive—between them. How many representatives hitherto listed as Democrats will join the new party no one can yet tell.

mate. Many of the "insurgents" of the House either have refused or are hesitating to follow the Roosevelt vote. And even if every Democratic representative should vote for Governor Wilson, he could not be elected unless three of the tied or hostile states should come to his rescue.

Therefore, if the election is thrown into Congress the prospects are that through a hopeless deadlock extending until March 4 the Presidency must on that date fall to the successful candidate for Vice-President. If his election is thrown into the Senate the possibility of a deadlock is lessened, but not eliminated by the fact that in that body only the two rather than the three candidates receiving the highest electoral vote would be called on by the Senators who would vote as individuals rather than by states. But there is room for grave doubt that any faction could gain a majority in the Senate, where the old "insurgent" Senators hold the balance of power. The next few weeks may show how many of these will, like Cummins, remain regulars, like Brickett, and how many will follow the progressive bandwagon.

To acquire a satisfactory mental picture of the exact procedure, should the coming election be thrown into Congress, you should first get a glimpse of how it has acted upon the rare occasions when it has, in the past, been resorted to for a final selection of President and Vice-President. A test of the process came early in the history of the republic. In the election of 1800 the electoral vote was divided as follows: Jefferson, Republican, 73; Burr, Republican, 73; John Adams, Federalist, 65; Charles C. Pinckney, Federalist, 44; John Jay, Federalist, 1. Not only was there no candidate with a majority, but Jefferson and Burr were tied. The House having been called upon to exercise its functions to decide the choice, the balloting commenced February 17, 1801, and continued until the 17th. There being then 16 states, the votes 9 nine were necessary for a choice.

On the 17th ballot and the sixth day of the contest Jefferson finally received the votes of 10 states and was declared elected. And Aaron Burr, having received the next highest, was under a new clause in the Constitution declared elected as Vice-President.

**The Old Method.**  
When the House thus chose Jefferson in 1801, the procedure was according to the original Constitutional provision, since superseded (in 1803) by the 12th amendment. The House at that time was permitted to choose the President from the "five highest candidates on the electors' list; and the person having the next highest number of electoral votes—whether a majority or not—was chosen Vice-President.

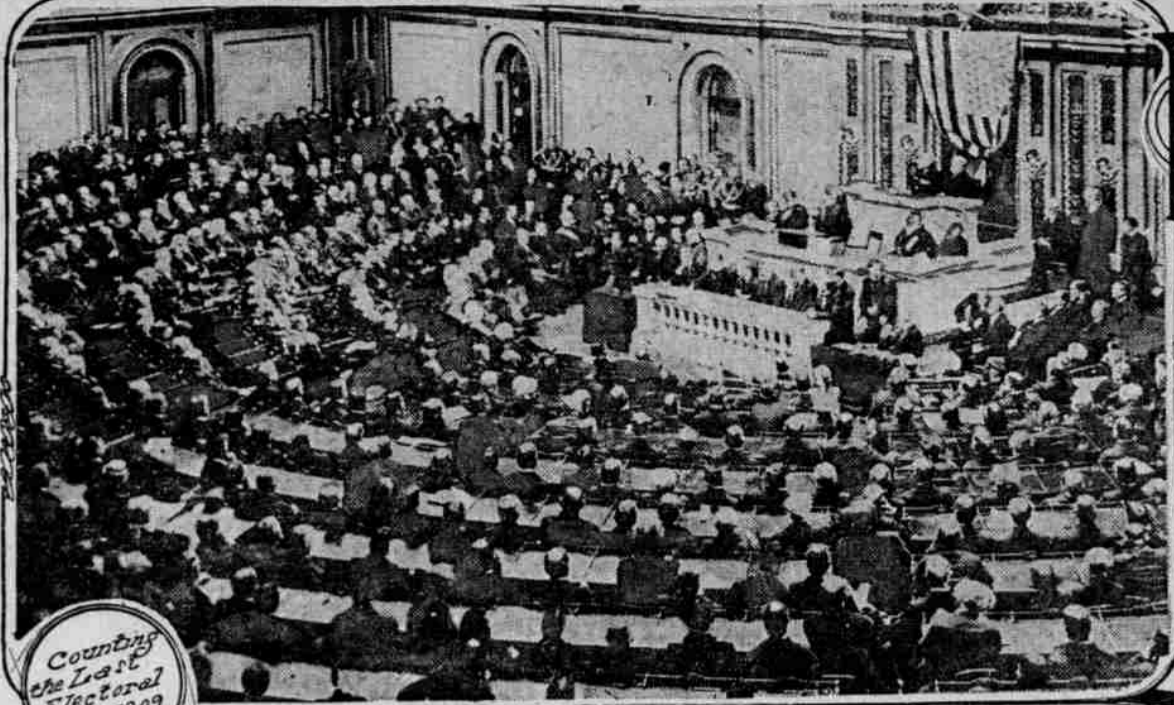
The Senate had no hand in the election of the Vice-President, except in case of a tie, when it chose "by ballot" between the tied candidates. But the second election to be thrown into the House was decided by the same rules that would govern its selection of a president next Winter. This was the election of 1824. In the campaign of that year, as thousands now, political parties were bitterly disorganized. Although Andrew Jackson, Van Buren, John Quincy Adams and Clay were the four candidates, Adams and Clay were the two who had a majority. Adams had 33 electoral votes, Clay 37 and Adams 41 electoral votes. So, as had been anticipated before the election, there was no choice of a President, although Calhoun had been elected Vice-President by more than two-thirds of all electors. The House of Representatives met on the 6th of December, five days after the meeting of the electors, and although it was known that there had been no choice of a President, no notice was taken of the fact until the 13th of January, 1825, when the House adopted a resolution appointing a committee to prepare a report on the election.

From the choice of a President of the United States." This plan, closely following the procedure of Jefferson's election by the House in 1801, would probably be as closely followed by the House should it find itself faced by the necessity of electing a President next February.

In this contest, the votes of 13 states were necessary to a choice between Quincy Adams and Jackson. Adams was sure of the New England states and of a majority in New York, Maryland and Ohio. Before it began its work a great scandal brewed in the House, the being charges and counter-charges of much bargaining and trading of votes. A Philadelphia journal published an alleged letter which accused Jackson, Van Buren and Adams of having offered their votes in exchange for the state portfolio, and Clay came back with the statement that the writer was "a base and infamous calumniator, a dastard, and a liar." Many other members of Congress had to write letters of explanation to constituents.

On the first ballot Adams was elected by the House, receiving 13 votes to seven for Jackson and four for Crawford. Clay having been squeezed out of the running because the Constitution limited the balloting to the candidates receiving the three highest electoral votes. Jackson's followers swallowed their pill with dignity and urged a further amendment of the Constitution to prevent a repetition of what they termed a National calamity.

The next excitement of this kind was in 1837, when the election of the Vice-President had to be thrown into the House. In the previous campaign R. M. "Black" Johnson, Van Buren's Democratic running mate, ran behind his ticket, receiving only 147 electoral votes, whereas Van Buren had 170 and a majority. A majority was lacking, however, in the case of Johnson, whose rivals for the Vice-Presidency, with their electoral votes, were: Francis



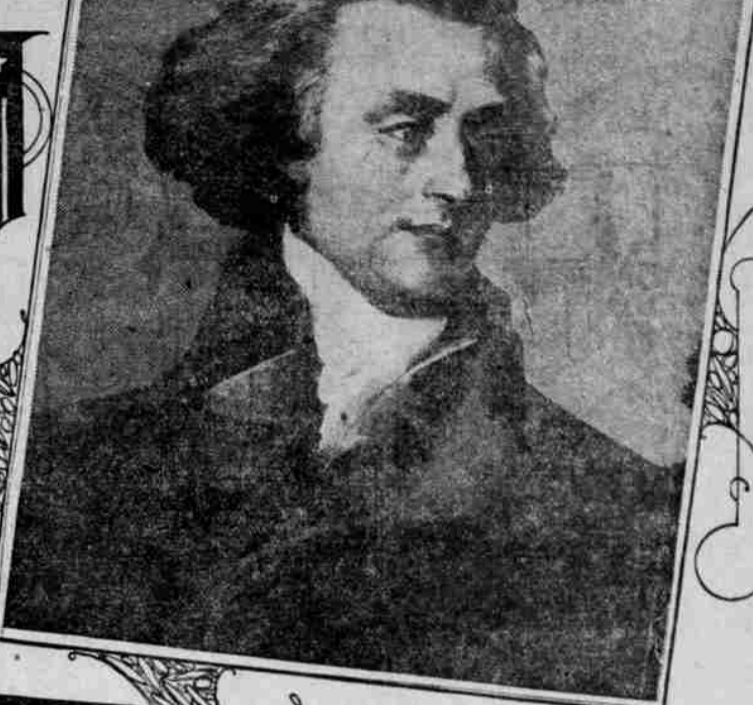
Counting the Least Electoral Vote, 1909



John Quincy Adams was first President to be elected by the House.



The Electoral Commission of 1877



Thomas Jefferson Elected President by the House in 1801.



R. M. Johnson, Only Vice President Ever Elected by the Senate.

Granger, Whig, 77; John Tyler, Whig, 47, and William Smith, Democrat, 23. The Senate elected Johnson.

**November May Not Decide.**  
Whether the next election is to be thrown into the House may not be known in November next. Whether some of the electors listed on its old party tickets will vote for the promised new party's candidates may not be known until the date when the electors meet to cast their ballots.

The doors of the House would be locked during the balloting, except against its officers and members of the Senate. At the request of the delegates of any one state the galleries could be cleared. From the commencement of the balloting until an election were completed no proposition to adjourn could be received unless on the motion of one state, seconded by another, the question being finally decided by the vote of states.

In balloting for President the following procedure would be followed: The representatives of each state would be arranged and seated together, beginning with the Maine delegation, seated at the right hand of the Speaker's chair, and thence proceeding around the hall of the House with the other delegations seated in the order in which the states are usually named in the proceedings for receiving ballots.

**Ballot Box for Each State.**  
A separate ballot box would be provided for each state delegation, which, if necessary, might appoint tellers. As the clerk of the House called the roll of states the sergeant-at-arms would present to that state's delegation two ballot boxes, one for ballots and one for a duplicate of the same ballots. The sergeant-at-arms would then carry one box to one set of tellers and the other to another. One representative from each state would be appointed by its delegation as a teller. These 48 tellers would then divide themselves into two teams, each assigned to a separate table, which would be in marked contrast with the arrangement at the House, when there were only eight instead of 48 tellers at each table.

**The Procedure in Detail.**  
And here is the procedure which, if precedents are observed, will be followed in the event that no candidate in next November's election is found, by this count to have received a majority of the electoral votes. The House would be called to order by the Speaker, and the House of Representatives would begin action with a roll call. This having shown that a member of

members from two-thirds of the states are present, the House would immediately proceed by ballot to choose a President from the three candidates. In case none should receive the vote of a majority of all the states on the first ballot for a President without interruption by other business until a President is chosen or there is a hopeless deadlock remaining unbroken until March 4.

The doors of the House would be locked during the balloting, except against its officers and members of the Senate. At the request of the delegates of any one state the galleries could be cleared. From the commencement of the balloting until an election were completed no proposition to adjourn could be received unless on the motion of one state, seconded by another, the question being finally decided by the vote of states.

In balloting for President the following procedure would be followed: The representatives of each state would be arranged and seated together, beginning with the Maine delegation, seated at the right hand of the Speaker's chair, and thence proceeding around the hall of the House with the other delegations seated in the order in which the states are usually named in the proceedings for receiving ballots.

**Ballot Box for Each State.**  
A separate ballot box would be provided for each state delegation, which, if necessary, might appoint tellers. As the clerk of the House called the roll of states the sergeant-at-arms would present to that state's delegation two ballot boxes, one for ballots and one for a duplicate of the same ballots. The sergeant-at-arms would then carry one box to one set of tellers and the other to another. One representative from each state would be appointed by its delegation as a teller. These 48 tellers would then divide themselves into two teams, each assigned to a separate table, which would be in marked contrast with the arrangement at the House, when there were only eight instead of 48 tellers at each table.

**The Procedure in Detail.**  
And here is the procedure which, if precedents are observed, will be followed in the event that no candidate in next November's election is found, by this count to have received a majority of the electoral votes. The House would be called to order by the Speaker, and the House of Representatives would begin action with a roll call. This having shown that a member of

ing the result, and a committee of three Representatives, would be immediately appointed to apprise, first President Taft, and then the President-elect, of the outcome of the contest.

Should some member of Congress contest the coming electoral vote during the procedure of counting it in February, as described, this would be the process: Upon the Vice-President's calling for objections, Senators and representatives would be called to the floor, but they would have to be made in writing and signed by at least one Senator and one Representative. Such objections could properly arise only over a question as to which of two state authorities could properly determine what electors had been chosen. No regularly given electoral vote from any state where the electors had been lawfully certified to, and where only one return had been received, could be questioned. The objections being received, the two houses would separate, the Senate returning to its own chamber. The majority of one house alone would not be sufficient to reject the electoral vote from any state, but both houses would have to vote the same way, and they would have to do this within five days after the first meeting of the two houses, or the return would be allowed until the matter was settled. There is no prospect, however, of such tactics being resorted to except in a case where the electoral vote was very close and where the party seeking a reversal of the indicated vote had a majority in both houses.

**Electoral Commission Method.**  
Such a contest would not, therefore, have to be settled by an electoral commission, such as straightened out the Hayes-Tilden tangle following the result of that election that thoughtful men in Congress, foreseeing great trouble over the approaching count of the electoral vote, had proposed. The Senate, got to work early in the Winter and passed a law providing that in case there should be more than one return from any state, the vote should be decided by a commission of 15 members. Each house was authorized to elect five members of this body by oral vote, and the Supreme Court, who would select a fifth justice to sit

with them, and the senator justice selected was to preside over the entire commission. Such a committee of physicians was forthwith appointed to sit upon the body of Tilden and determine whether he was politically dead or alive, and thus we have the famous "electoral commission." It consisted of eight Republicans and seven Democrats, the fifth justice chosen by the four appointed justices making the odd Republican. It met February 1, 1877, and deliberated upon the legality of disputed returns for a month, the joint session of Congress not meeting until March 2 to witness the canvass of the electoral vote by the president of the Senate, who, on the basis of the findings of the commission, announced the election of Hayes and Wheeler. It was the country's widespread dissatisfaction over this arrangement which caused the passage of a law providing that the states themselves should elect electors, but allowing that an appeal may be taken to Congress in case of such complications as would warrant the election of Hayes and Wheeler. It was the country's widespread dissatisfaction over this arrangement which caused the passage of a law providing that the states themselves should elect electors, but allowing that an appeal may be taken to Congress in case of such complications as would warrant the election of Hayes and Wheeler. It was the country's widespread dissatisfaction over this arrangement which caused the passage of a law providing that the states themselves should elect electors, but allowing that an appeal may be taken to Congress in case of such complications as would warrant the election of Hayes and Wheeler.

In considering all of these possibilities which may arise between election day and next March, bear in mind one important fact—one now frequently emphasized by the Roosevelt partisans above mentioned—that the law of party loyalty can prevent any Republican electors voting for a progressive or even a Democratic candidate. Once in our history this has occurred—elector failing to vote for the nominee of his party. This was in 1820, when James Monroe received all of the electoral votes but one. "That's because you ain't standin' where I am," retorted Sam. When good humor was finally restored I borrowed a saddle, threw it upon a pony and hurried down the road after the runaway. When I arrived at the ranch I found Hotstiff in the corral, still breathing pretty hard and trembling with nervousness and fright. A casual examination showed that he was none the worse for his unusual lion-hunting experience. It seemed, but a tremendous and reproachful look in his eye as he watched my examination. No doubt he was wondering what sort of a friend I was to tie him up and then cast him out alone. I couldn't explain it so that he could understand, but I patted and stroked him until he was calmed. I felt really sorry for the noble little animal.

# HOW A WYOMING COW PONY CAPTURED A MOUNTAIN LION

### Fact Story of Plucky "Hotstiff" and His Feat in Dragging an Enraged Beast for Miles to Its Death.

**T**HE recently published exploits of an ex-cowboy, in lassoing wild animals in Africa, puts me in mind of my own experience in that line when punching cows for the old AU outfit in Wyoming in 1885.

Among numerous tasks allotted to me, preparatory to starting on the round-up, was the care of a small bunch of "green" horses that I was to break for use in my work later on. As a matter of convenience these were kept with the wagon stock in a small pasture a short distance from the ranch, and the trail to this pasture led by the water hole where the other lions had been captured. Upon the particular morning I am going to describe I had selected a pony from my string known as Hotstiff, and when he bucked, which he did nearly every time I got on him and as often thereafter as the notion seemed to strike him, he could jump higher, land harder and keep it up longer than any four-legged brute I had ever straddled.

"I was a new man with the outfit and wanted to 'make good.' I felt that if I could break an animal of Hotstiff's apparent cussedness my reputation would be made. Besides, he was the handsomest pony on the range, and I always like to ride a fine-looking horse.

Upon this particular morning, after our usual tilt around the corral, I started off up the trail for the pasture. About half way to the water

hole I passed a breaking camp which some of the broncho-busters had established on a nice flat, clear of sagebrush and coulees or ravines. With a few snubbing-posts, a corral and a scrub wagon, they were taking things easy. I had started at the first streak of dawn, and it was then not sunrise, so there was no one stirring in the camp.

I had passed the sleeping camp but a short distance when my attention was attracted by what seemed, in the half-light of the early dawn, to be the struggle of a calf. Naturally I was at once interested and turned Hotstiff in that direction. I found upon a closer view that the animal I had seen was a calf, and the struggle that had attracted my attention was that of the calf with the lion alone. He had taken two men to the breaking camp, but I was not to be so easily fooled. I was in a quandary. The common-sense thing to do was to leave the lion to his feast and go back to the camp, but a short distance away, and get a good rope to help me. On the other hand, I had taken two men to bring each of the others, but I wanted to go one better and rope that lion myself. I knew the footholdness of trying to do neat roping work on a half-broken horse, but I also knew that if I could throw a rope around that lion's neck and get Hotstiff head-

ed down the trail for the ranch, there wasn't a lion living that could catch him. Should it come to a race I reckoned to beat the lion so badly that I should pull him off his feet and choke him.

To decide what to do took me hardly the time necessary to unhook the rope from the saddle. After throwing out the loop to be sure there were no kinks in it, I urged Hotstiff toward the beast. The lion resented my approach by snarling and growling, and I was not to be so easily fooled. I was in a quandary. The common-sense thing to do was to leave the lion to his feast and go back to the camp, but a short distance away, and get a good rope to help me. On the other hand, I had taken two men to bring each of the others, but I wanted to go one better and rope that lion myself. I knew the footholdness of trying to do neat roping work on a half-broken horse, but I also knew that if I could throw a rope around that lion's neck and get Hotstiff head-

ed down the trail for the ranch, there wasn't a lion living that could catch him. Should it come to a race I reckoned to beat the lion so badly that I should pull him off his feet and choke him.

To decide what to do took me hardly the time necessary to unhook the rope from the saddle. After throwing out the loop to be sure there were no kinks in it, I urged Hotstiff toward the beast.

The lion resented my approach by snarling and growling, and I was not to be so easily fooled. I was in a quandary. The common-sense thing to do was to leave the lion to his feast and go back to the camp, but a short distance away, and get a good rope to help me. On the other hand, I had taken two men to bring each of the others, but I wanted to go one better and rope that lion myself. I knew the footholdness of trying to do neat roping work on a half-broken horse, but I also knew that if I could throw a rope around that lion's neck and get Hotstiff head-

ed down the trail for the ranch, there wasn't a lion living that could catch him. Should it come to a race I reckoned to beat the lion so badly that I should pull him off his feet and choke him.

To decide what to do took me hardly the time necessary to unhook the rope from the saddle. After throwing out the loop to be sure there were no kinks in it, I urged Hotstiff toward the beast. The lion resented my approach by snarling and growling, and I was not to be so easily fooled. I was in a quandary. The common-sense thing to do was to leave the lion to his feast and go back to the camp, but a short distance away, and get a good rope to help me. On the other hand, I had taken two men to bring each of the others, but I wanted to go one better and rope that lion myself. I knew the footholdness of trying to do neat roping work on a half-broken horse, but I also knew that if I could throw a rope around that lion's neck and get Hotstiff head-

ed down the trail for the ranch, there wasn't a lion living that could catch him. Should it come to a race I reckoned to beat the lion so badly that I should pull him off his feet and choke him.

To decide what to do took me hardly the time necessary to unhook the rope from the saddle. After throwing out the loop to be sure there were no kinks in it, I urged Hotstiff toward the beast.

The lion resented my approach by snarling and growling, and I was not to be so easily fooled. I was in a quandary. The common-sense thing to do was to leave the lion to his feast and go back to the camp, but a short distance away, and get a good rope to help me. On the other hand, I had taken two men to bring each of the others, but I wanted to go one better and rope that lion myself. I knew the footholdness of trying to do neat roping work on a half-broken horse, but I also knew that if I could throw a rope around that lion's neck and get Hotstiff head-

ed down the trail for the ranch, there wasn't a lion living that could catch him. Should it come to a race I reckoned to beat the lion so badly that I should pull him off his feet and choke him.

To decide what to do took me hardly the time necessary to unhook the rope from the saddle. After throwing out the loop to be sure there were no kinks in it, I urged Hotstiff toward the beast. The lion resented my approach by snarling and growling, and I was not to be so easily fooled. I was in a quandary. The common-sense thing to do was to leave the lion to his feast and go back to the camp, but a short distance away, and get a good rope to help me. On the other hand, I had taken two men to bring each of the others, but I wanted to go one better and rope that lion myself. I knew the footholdness of trying to do neat roping work on a half-broken horse, but I also knew that if I could throw a rope around that lion's neck and get Hotstiff head-

ed down the trail for the ranch, there wasn't a lion living that could catch him. Should it come to a race I reckoned to beat the lion so badly that I should pull him off his feet and choke him.

To decide what to do took me hardly the time necessary to unhook the rope from the saddle. After throwing out the loop to be sure there were no kinks in it, I urged Hotstiff toward the beast.

The lion resented my approach by snarling and growling, and I was not to be so easily fooled. I was in a quandary. The common-sense thing to do was to leave the lion to his feast and go back to the camp, but a short distance away, and get a good rope to help me. On the other hand, I had taken two men to bring each of the others, but I wanted to go one better and rope that lion myself. I knew the footholdness of trying to do neat roping work on a half-broken horse, but I also knew that if I could throw a rope around that lion's neck and get Hotstiff head-

ed down the trail for the ranch, there wasn't a lion living that could catch him. Should it come to a race I reckoned to beat the lion so badly that I should pull him off his feet and choke him.

To decide what to do took me hardly the time necessary to unhook the rope from the saddle. After throwing out the loop to be sure there were no kinks in it, I urged Hotstiff toward the beast. The lion resented my approach by snarling and growling, and I was not to be so easily fooled. I was in a quandary. The common-sense thing to do was to leave the lion to his feast and go back to the camp, but a short distance away, and get a good rope to help me. On the other hand, I had taken two men to bring each of the others, but I wanted to go one better and rope that lion myself. I knew the footholdness of trying to do neat roping work on a half-broken horse, but I also knew that if I could throw a rope around that lion's neck and get Hotstiff head-

ed down the trail for the ranch, there wasn't a lion living that could catch him. Should it come to a race I reckoned to beat the lion so badly that I should pull him off his feet and choke him.

To decide what to do took me hardly the time necessary to unhook the rope from the saddle. After throwing out the loop to be sure there were no kinks in it, I urged Hotstiff toward the beast.

The lion resented my approach by snarling and growling, and I was not to be so easily fooled. I was in a quandary. The common-sense thing to do was to leave the lion to his feast and go back to the camp, but a short distance away, and get a good rope to help me. On the other hand, I had taken two men to bring each of the others, but I wanted to go one better and rope that lion myself. I knew the footholdness of trying to do neat roping work on a half-broken horse, but I also knew that if I could throw a rope around that lion's neck and get Hotstiff head-

ed down the trail for the ranch, there wasn't a lion living that could catch him. Should it come to a race I reckoned to beat the lion so badly that I should pull him off his feet and choke him.

To decide what to do took me hardly the time necessary to unhook the rope from the saddle. After throwing out the loop to be sure there were no kinks in it, I urged Hotstiff toward the beast. The lion resented my approach by snarling and growling, and I was not to be so easily fooled. I was in a quandary. The common-sense thing to do was to leave the lion to his feast and go back to the camp, but a short distance away, and get a good rope to help me. On the other hand, I had taken two men to bring each of the others, but I wanted to go one better and rope that lion myself. I knew the footholdness of trying to do neat roping work on a half-broken horse, but I also knew that if I could throw a rope around that lion's neck and get Hotstiff head-

ed down the trail for the ranch, there wasn't a lion living that could catch him. Should it come to a race I reckoned to beat the lion so badly that I should pull him off his feet and choke him.

To decide what to do took me hardly the time necessary to unhook the rope from the saddle. After throwing out the loop to be sure there were no kinks in it, I urged Hotstiff toward the beast.

The lion resented my approach by snarling and growling, and I was not to be so easily fooled. I was in a quandary. The common-sense thing to do was to leave the lion to his feast and go back to the camp, but a short distance away, and get a good rope to help me. On the other hand, I had taken two men to bring each of the others, but I wanted to go one better and rope that lion myself. I knew the footholdness of trying to do neat roping work on a half-broken horse, but I also knew that if I could throw a rope around that lion's neck and get Hotstiff head-

ed down the trail for the ranch, there wasn't a lion living that could catch him. Should it come to a race I reckoned to beat the lion so badly that I should pull him off his feet and choke him.

To decide what to do took me hardly the time necessary to unhook the rope from the saddle. After throwing out the loop to be sure there were no kinks in it, I urged Hotstiff toward the beast. The lion resented my approach by snarling and growling, and I was not to be so easily fooled. I was in a quandary. The common-sense thing to do was to leave the lion to his feast and go back to the camp, but a short distance away, and get a good rope to help me. On the other hand, I had taken two men to bring each of the others, but I wanted to go one better and rope that lion myself. I knew the footholdness of trying to do neat roping work on a half-broken horse, but I also knew that if I could throw a rope around that lion's neck and get Hotstiff head-