(1)

In Convention -

Assembly Chamber
State Capitol
Sacramento
Wednesday Oct 15, 1878

Convention met pursuant to adjournment -

President Hoge in the chair -

The Roll was called and the following members were present -

(2) Roll-call of Oct. 16th, 1878.

Roll-Call of Delegates to the Constitutional Convention, 1878.

Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.
ANDREWS	1		FAWCETT	34		LAVIGNE	61		SHOEMAKER		
AYERS	2		FILCHER	35		LEWIS	66		SHURTLEFF	97	
BARBOUR	3		FINNEY	36		LINDOW	67		SMITH of Santa Clara.		
BARNES	a		FREEMAN	37		MANSFIELD	68		SMITH of Fourth District.	98	
BARRY	4		FREUD	38		MARTIN of Alameda.	69		SMITH of San Francisco.	99	
BARTON	5		GARVEY			MARTIN of Santa Cruz.	70		SOULE	100	
BEERSTECHER	6		GLASSCOCK	44		McCALLUM			STEDMAN		
BELCHER	7		GORMAN	39		McCOMAS	71		STEELE	101	
BELL	8		GRACE	40		McCONNELL	72		STEVENSON	102	
BERRY			GRAVES			McCOY	73		STRONG	103	
BIGGS	9		GREGG	41		McFARLAND	74		STUART	54	
BLACKMER	10		HAGER	a		McNUTT	75		SWEASEY	104	
BOGGS	11		HALE	42		MILLER	76		SWENSON	105	
BOUCHER	12		HALL	43		MILLS	77		SWING	106	
BROWN	13		HARRISON	44		MOFFAT	78		TERRY	107	
BURT	14		HARVEY	45		MORELAND	79		THOMPSON	108	
CAMPBELL	15		HEISKELL	46		MORSE	80		TINNIN	109	
CAPLES	16		HEROLD	47		MURPHY	81		TOWNSEND	110	
CASSERLY	a		HERRINGTON	48		NASON	82		TULLY	111	
CHAPMAN	17		HILBORN	49		NELSON	83		TURNER	112	
CHARLES	54		HITCHCOCK	50		NEUNABER	84		TUTTLE	113	
CONDON	18		HOLMES	51		NOEL	85		VACQUEREL	114	
COWDEN	19		HOWARD	52		O'DONNELL	127		VAN DYKE	115	
CROSS	20		HUESTIS	53		OHLEYER	8		VAN VOORHIES	116	
CROUCH	21		HUGHEY	54		O'SULLIVAN	86		WALKER of Marin.	54	
DAVIS	22		HUNTER	54		OVERTON			WALKER of Tuolumne.	117	
DEAN	23		INMAN	55		PORTER	87		WATERS	54	
DOWLING	24		JOHNSON	56		PROUTY	88		WEBSTER	118	
DOYLE	25		JONES	128		PULLIAM	88		WELLER		
DUDLEY of San Joaquin and Amador.	26		JOYCE	57		REDDY	89		WELLIN	119	
DUDLEY of Solano.			KELLY	58		REED	90		WEST	120	
DUNLAP	27		KENNY	59		REYNOLDS	91		WICKES	121	
EAGON	28		KEYS	60		RHODES	92		WHITE	122	
EDGERTON	29		KLEINE	61		RINGGOLD	93		WILSON of Tehama.	123	
ESTEY of Contra Costa and Marin.	30		LAINE	54		ROLFE	94		WILSON of First District.		
ESTEE of First District.	31		LAMPSON	62		SCHELL	95		WINANS	124	
EVEY	32		LARKIN	63		SCHOMP	96		WYATT	125	
FARRELL	33		LARUE	64		SHAFTER			Mr. PRESIDENT	126	

Ayes _____

Noes _____

(3) Leave of absence

Mr. Ohlleyer, Mr. Leadman and Mr. Walker of Marin were each granted leave of absence for one day and Mr. Gearcock for two days -

The journal of yesterday was read and approved.

(4) Presentation of Petitions &c -

Petitions were presented by Mr Hale from residents of Ophir Placer County, relative to the sale of intoxicating liquor

By Mr. ~~Blackmer~~ Soule from citizens of Lassen county relative to the same subject

By Mr. Schell from citizens of Stanislaus County relative to the same subject - Each of the above referred to committee on Legislative Department

By Mr. Blackmer from residents of Santa Barbara, Ventura and Los Angeles counties relative to the Right of Suffrage - Referred to the committee on the Right of Suffrage

5

~~Reports of Standing Committee~~

Mr. Estee from the Committee on Rules made the following Report

6

Sacramento Oct 15th 1878

Mr President

Your Committee on Rules, Order of Business and Standing Committees to whom were referred a number of proposed Amendments, beg leave to report them back as follows

I.

Resolution No 38 offered by Mr Filcher providing that Mr W. P. Grace be added to the Committee on State Institutions and Public Buildings," Your Committee recommend that the resolution be indefinitely postponed.

II.

Resolution No 40 offered by Mr Shoemaker providing that Mr McCoy be added to the Committee on Water and Water Rights. Your Committee recommend that this resolution be indefinitely postponed.

III

Resolution No 39 offered by Winans suggesting that Mr J. B. Thompson be added to the Committee on Education. Your Committee also recommend that this resolution be indefinitely postponed. The Committee respectfully suggests that under Rule 6 all appointments on Committees rest with the President of the Convention.

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IV

Resolutions No 36 and 37 offered by Messrs Stedman and Wellin respectively that no member shall be allowed pay for any day absent with or without leave except in case of sickness or on Committee duty. Your Committee recommend that the two resolutions last named be indefinitely postponed. The Political Code provides that members of the Legislature shall receive $10 per day for the Session and the Act creating this Convention provides that the members thereof shall receive the same per diem as members of the Legislature hence the pay of members of this convention is fixed by law

V

Your Committee recommends the adoption of the ~~Amendment~~ Resolution offered by Mr West that the Committee on Education be increased from nine to thirteen members.

VI

Your Committee recommends that the resolution offered by Mr Campbell to amend Rule 60 by striking out the words and figures "except Rules 50, 51, 52, 53 and 55," and to repeal Rule 71, be indefinitely postponed.

~~Your Committee~~

Your Committee again most earnestly protest against the daily changing of the rules of this Convention such practices instead of facilitating business, clogs the wheels of Legislation and too frequently is done to meet individual cases rather than to expedite the general business of Legislation.

VII.

Your Committee also recommends the indefinite postponement of the Resolution offered by Mr Noel that Rule 71 be repealed.

VIII

Your Committee recommends that Resolution No 44 offered by Mr McCallum providing that Rule 60 be changed so that a majority only instead of two thirds can change the Rules be indefinitely postponed.

W M Ritter
Chairman
Committee on Rules

9

The Report was taken up clause by clause.

Mr. Campbell moved to non-concur with the Committee in their recommendation that the resolution to amend Rule 60 ~~by striking out the~~ be indefinitely postponed. Lost

Mr. Noel moved to non-concur with the Committee in their recommendation that the Resolution to repeal Rule 71 be indefinitely postponed. Lost

The Report was adopted.

The Committee also reported the following Resolution

10 ~~Also the following Resolution~~

No. 43 –

Resolved that the Controller be and he is authorized and directed to draw his warrant in favor of J. Steppacher for the sum of Dollars for services as Clerk of the Committee on Rules payable out of the appropriation for this Convention and that the State Treasurer be and he is authorized and directed to pay the same which was

Referred to the Committee on Mileage and Contingent Expenses –

10½

Introduction of Resolutions and Propositions —

Mr. Lawry moved to dispense with the Roll call on motion of Mr. Barbour ~~moved that~~ the temporary resolution directing the call of the Roll in alphabetical order for the introduction of Resolutions and Propositions ~~relating to the constitution~~ was suspended —

And the following Resolution and Proposition were introduced

No. 318

By Mr. Benoitche
Relative to the Militia
Referred to committee on Military affairs —

11/

also

No. 319

Relative to taxation
Referred to Committee on
Revenue and Taxation

No. 320

By Mr. Murphy.
Relative to Libels
Referred to Committee on
Legislative Department

No. 321

By Mr. O'Donnell
Relative to the Chinese
Referred to Committee
on Chinese

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No. 322

By Mr. Mansfield
Relative to the Grand jury system
Referred to com. on Legislative Department

No. 323

By Mr. White
Relative to future amendments
Referred to com on future amendments

No. 324

By Mr. Schell
Relative to the Executive Department
Referred to com. on Executive Department

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No. 325

By Mr. O'Donnell
Relative to Taxation
Referred to the Com. on
Revenue and Taxation

No. 326

By Mr. O'Sullivan
Relative to the importation
of Coal in -
Referred to Com. on
Legislative Department

Also

No. 327 Relative to the
employment of Chaplains in
State institutions
Referred to Com. on
Legislative Department

14

No. 328

By Mr. Every -
Relative to the Legislative Department
Referred to committee on Legislative Department

No. 329

By Mr. Brown
Relative to unappropriated water of the Lakes and Rivers of this State
Referred to com on Water and Water Rights

No. 330

By Mr. Grace -
Relative to Taxation
Referred to Com on Revenue and Taxation

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No. 331

By Mr. Sweeney –
Relative to ~~the~~ suffrage
Referred to Com. on ~~the~~
Right of Suffrage –

No. 332

By Mr. Gorman
Relative to the Legislative
Department
Referred to Com. on
Legislative Department.

No. 333

By Mr. Grace
Relative to the
Legislative Department
Referred to Com. on
Legislative Department.

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No. 334

By Mr. Nuestis
Relative to Grand Juries
Referred to Committee on
Preamble and Bill
of Rights -

also

No. 335

~~By Mr.~~
Relative to the jury system
Referred to Com. on
Preamble and Bill
of Rights

No. 336

By Mr. Lavigne
Relative to Privileges
and Elections
Referred to Com. on
Privileges and Elections

17

also No. 337

Relative to Water Rights
Referred to com. on
Water and Water Rights

No. 338

By Mr. Martin of Alameda
Relative to corporations
Referred to com. on Corporation

No. 339

By Mr. O'Donnell
Relative to Legislative
Department
Referred to com on
Legislative Department

also No. 340 -

Relative to corporation
Referred to com - on
Corporations

No. 341

By Mr. McConnell
Relative to Preamble
and Bill of Rights
Referred to Com. on
Preamble and Bill of
Rights

No. 342

By Mr. Strong
Relative to Representation and Apportionment
Referred to Com. on
Representation and appor-
-tionment

No 343

By Mr. McCombs
Relative to Right of Suffrage
Referred to com on
Right of Suffrage -

19

No. 344

By Mr. Howlin

Relative to corporations other than municipal.

Referred to com on Corporations other than municipal

also No. 345

~~By Mr. Howlin~~

Relative to the Legislative Department

Referred to com. on ~~Legislative Department~~ Mining

No. 346

By Mr. Howard

Relative to taxation

Referred to com. on Revenue and Taxation

19½

No. 347

By Mr. Hager
Relative to the Bill of Rights
Referred to Committee on Preamble and Bill of Rights

Also —

No. 348 —
Relative to the Judiciary
Referred to Committee on Judiciary and Judicial Department

The ~~chair~~ President announced the following additional appointments to the Committee on Education —

E. T. Blackmer
S. B. Thompson
J. Neat Martin
and J. R. Freud —

Miscellaneous Motions and Resolutions

By Mr. Edgerton —

21

Resolved -

1st - That after this date, and until Wed=
=nesday the 23d day of the present month, all that part of rule (17) Seven=
=teen after the (6th) sixth order of business, be, and the same is hereby, suspended - -

2d - That from and after this day and until said 23d Inst=, the Convention ad=
=journ Each day, immediately after concluding the (6th) sixth order of business, for the purpose of enabling the standing Committees to consider the subjects referred to them, and to mature a plan of action con=
cerning the same

3d. That immediately after such adjournment, said Committees proceed to

2v

hold daily sessions for the disposal of the business before them; and that on said 23d inst., or sooner if practicable, they report such plan to the Convention, for its action thereon.

Res.

A Resolution relating to a suspension of the order of business. —

S. O. 3. P. M.
15th inst

adopted

Edgerton

2/3 On motion of Mr. Beveridge ~~moved that~~ the same was made a special Order for ~~today at~~ 3 o'clock P.M. of today

Also By Mr. Edgerton

24

Resolved - that the Committee on Revenue & Taxation be and it is hereby authorized to employ - a clerk at a compensation of five dollars per day - for each day that he is actually employed

Refused to con-
on contingent expenses

~~Carried~~

25

By Mr. Dunlap

Resolved - that the President of this Con-
-vention appoint a Night watchman whose
duties shall be to take charge of this
Chamber and see that no unauthorized
persons enter the same, said night w-
-atchman shall not permit any books
or papers to be taken from members
desks - without orders from the owners
thereof, said Night watchman shall
receive the ~~same~~ same compensa-
-tion as is now paid to the doorkeeper
of this Convention

On motion of Mr.
Hibben the same was
~~Carried~~
laid temporarily on the table
until the Report of the Com-
on Contingent Expenses is made.

26 By Mr. Barton —

Resolved —

That the Superintendent of State Printing be requested to furnish to this Convention, at the earliest date possible, a statement showing the cost to date, of printing the resolutions and propositions, relating to the New Constitution, that have been presented to this Convention.

~~Offered by Barton of Hendricks~~

Adopted

27 By Mr. Beerstecher

Whereas the delegates here assembled are the agents and servants of the sovereign people of this State, and as such their actions should at all times be open to public scrutiny and criticism,

Therefore Resolved,

That ~~it is the sense of this Convention that~~ the accredited newspaper reporters and correspondents of the press reporting the proceedings of this Convention, be privileged to be present at all regular meetings of standing Committees.

(Beerstecher)

Mr. Filcher moved to amend so as to read "That it is the sense of this Convention" that the accredited newspaper reporters etc - amendment adopted

Table

By
Beerstecker

28

Mr Gregg moved to lay the Resolution on the Table ~~carried~~ —

Upon which the ayes and ~~Buttr Estes~~

Noes were demanded by the requisite number and the motion prevailed by the following vote —

29

— To Say on Table —

~~Roll-Call of Delegates to the Constitutional Convention, 1878.~~

Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.
ANDREWS	1		FAWCETT	20		LAVIGNE		30	SHOEMAKER		
AYERS		1	FILCHER		13	LEWIS	27		SHURTLEFF	46	
BARBOUR		2	FINNEY	21		LINDOW		31	SMITH of Santa Clara.		
BARNES			FREEMAN		14	MANSFIELD	28		SMITH of Fourth District.		45
BARRY		3	FREUD		15	MARTIN of Alameda.	29		SMITH of San Francisco.		46
BARTON	2		GARVEY	22		MARTIN of Santa Cruz.	30		SOULE		47
BEERSTECHER		4	GLASSCOCK		7	McCALLUM		32	STEDMAN		
BELCHER	3		GORMAN		16	McCOMAS		33	STEELE	47	
BELL			GRACE		17	McCONNELL	31		STEVENSON	48	
BERRY			GRAVES			McCOY	32		STRONG		48
BIGGS	4		GREGG	23		McFARLAND	33		STUART		
BLACKMER	5		HAGER			McNUTT	34		SWEASEY		49
BOGGS	6		HALE	24		MILLER	35		SWENSON		50
BOUCHER	7		HALL	25		MILLS	36		SWING	49	
BROWN	8		HARRISON		18	MOFFAT		34	TERRY	50	
BURT	9		HARVEY	26		MORELAND		35	THOMPSON	51	
CAMPBELL	10		HEISKELL		19	MORSE		36	TINNIN		51
CAPLES		5	HEROLD		20	MURPHY		37	TOWNSEND	52	
CASSERLY			HERRINGTON		21	NASON		38	TULLY	54	
CHAPMAN	11		HILBORN		22	NELSON		39	TURNER	55	
CHARLES			HITCHCOCK	27		NEUNABER		40	TUTTLE		52
CONDON		6	HOLMES	28		NOEL			VACQUEREL		53
COWDEN	12		HOWARD		23	O'DONNELL		41	VAN DYKE		54
CROSS		7	HUESTIS	29		OHLEYER			VAN VOORHIES	56	
CROUCH	13		HUGHEY		24	O'SULLIVAN		42	WALKER of Marin.		
DAVIS		8	HUNTER		25	OVERTON			WALKER of Tuolumne.	56	
DEAN		9	INMAN	30		PORTER	37		WATERS		
DOWLING		10	JOHNSON	31		PROUTY	38		WEBSTER		55
DOYLE			JONES	32		PULLIAM	39		WELLER		
DUDLEY of San Joaquin and Amador.	14		JOYCE		26	REDDY	40		WELLIN		56
DUDLEY of Solano.			KELLY	33		REED	41		WEST		57
DUNLAP	15		KENNY		27	REYNOLDS		43	WICKES		58
EAGON	16		KEYS	34		RHODES	42		WHITE		59
EDGERTON	17		KLEINE		28	RINGGOLD		44	WILSON of Tehama.	57	
ESTEY of Contra Costa and Marin.	18		LAINE			ROLFE	43		WILSON of First District.		
ESTEE of First District.	19		LAMPSON	35		SCHELL	44		WINANS	58	
EVEY		11	LARKIN		29	SCHOMP	45		WYATT	59	
FARRELL		12	LARUE	36		SHAFTER			MR. PRESIDENT	60	

Ayes ~~61~~ 70

Noes ~~49~~ 59

~~110~~

129

30 By Mr. Estee

Resolved that the ~~Convention~~ Controller of State shall issue his Warrant and the Treas^r shall pay to Willie Campbell the sum of $18 being 6 days pay as page for Services performed before his appointment

Referred to com- on mileage and contgt. Expenses -

31/ By Mr. Barbour

~~Resolved~~ -

Whereas - The member of this Convention from Santa Barbara Co. Mr Eugene Fawcett is the present incumbent of the office of District Judge of the 17-Judicial Dist - Therefore,

Resolved -

That the Com on Judiciary & Judicial Dept Vr and they are hereby instructed to inquire into the eligibility of said member and his right to a Seat in this Convention and to report thereon at an early day -

Mr. Barbour moved to refer the same to committee on Privileges and Elections

3 ~~04~~

~~By Mr. Estes Barbour~~

Lost

Mr. Howard moved to refer the same to the Judiciary Committee

Mr. Dudley of San Joaquin rose to a point of order that the law provided ~~for a special committee to investigate~~ "that no member shall "be expelled until the report of a "Committee appointed to inquire "into the facts alleged as the ground "of his expulsion shall have been "made — and that a special Committee should be appointed for this purpose —

The point of order was overruled by the chair and the motion to refer ~~adopted~~ prevailed — so referred —

33

By Mr. Holborn

~~Holborn~~

Resolved - That the Superintendent of State Printing be directed to print the Revised Rules of the Convention with the list of Committees and the names of members of each Committee, at once and out of its order.

adopted

34

Mr. Edgerton was granted leave to introduce the following Resolution

Resolved - That so much of the existing Constitution as relates to the Preamble and Declaration of Rights, be referred to the Committee on Preamble and Bill of Rights -

That so much of the same as relates to the Rights of Suffrage, be referred to the Committee on Right of Suffrage -

That so much of the same as relates to the Legislative Department, be referred to the Committee on Legislative Department -

That so much of the same as relates to the Executive Department, be referred to the Committee on Executive Department -

That so much of the same as relates to the Judicial Department be referred to the Committee on the Judiciary and Judicial Department.

That so much of the same as relates to the Militia be referred to the Committee on Military Affairs.

That so much of the same as relates to State Debts be referred to the Committee on State and Municipal Indebtedness.

That so much of the as relates to Education be referred to the Committee on Education.

That so much of the same as relates to the mode of amending and revising the Constitution be referred to the Committee on Other Amendments

37

That so much of the same as relates to Miscellaneous Provisions, Excepting Taxation, be referred to the Committee on Miscellaneous Subjects.

That so much of the same as relates to the Schedule be referred to the Committee on Schedule.

The same was adopted.

At 11 o'clock and 45 minutes a.m. Mr. Eddie moved to adjourn
Lost

The Convention took a recess until 2 o'clock P.M. —

Afternoon Session

Convention reassembled at 2 o'clock P.M. President Hoge in the chair

Quorum present

(Mr. Murphy in the chair —)

Special Order at 2 P.M.

The ~~President~~ chair ~~Chair~~ announced as a Special Order Resolution No. 40 introduced by Mr. H. Manovelatie to the mode of adopting the new Constitution

Mr. O'Donnell moved to lay the same on the Table and the motion prevailed

Mr. Edgerton moved to reconsider the vote by which the Resolution concerning the articles of the existing constitution and their reference -

was passed this morning

The motion prevailed and the Resolution was leave withdrawn by the mover for the purpose of modification.

Special Order at 3 P.M.

Resolution relating to a suspension of the order of business was now taken up and adopted -

At two o'clock and thirty minutes P.M. on motion of Mr. Ayers the Convention adjourned

— Un. Journal Clerk —

— Minutes — Tuesday Oct. 15. 1878 —

10/15/78