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In Convention
Assembly Chamber, State Capitol
Sacramento
Friday Nov 1st 1878

Convention met pursuant to adjournment

President Hyde in the Chair

Roll called and the following members were ~~present~~ absent

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

Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.
ANDREWS	1		FAWCETT	3		LAVIGNE	7		SHOEMAKER	1	
AYERS	2		FILCHER	4		LEWIS	8		SHURTLEFF	2	
BARBOUR	3		FINNEY	5		LINDOW			SMITH of Santa Clara.	140	
BARNES	4		FREEMAN	6		MANSFIELD	9		SMITH of Fourth District.	3	
BARRY	139		FREUD	7		MARTIN of Alameda.	70		SMITH of San Francisco.	4	
BARTON	5		GARVEY	8		MARTIN of Santa Cruz.	1		SOULE	5	
BEERSTECHER	6		GLASSCOCK			McCALLUM	2		STEDMAN	6	
BELCHER	7		GORMAN	9		McCOMAS	3		STEELE	7	
BELL	8		GRACE	140		McCONNELL	4		STEVENSON	8	
BERRY			GRAVES	1		McCOY	5		STRONG	9	
BIGGS	9		GREGG	2		McFARLAND	6		STUART		
BLACKMER	10		HAGER	3		McNUTT	7		SWEASEY	110	
BOGGS	1		HALE	4		MILLER	8		SWENSON	1	
BOUCHER	2		HALL	5		MILLS	9		SWING	2	
BROWN	3		HARRISON	6		MOFFAT			TERRY	3	
BURT	4		HARVEY	7		MORELAND	80		THOMPSON	4	
CAMPBELL	5		HEISKELL	8		MORSE	1		TINNIN	5	
CAPLES	6		HEROLD			MURPHY	2		TOWNSEND	6	
CASSERLY	7		HERRINGTON	9		NASON	3		TULLY	7	
CHAPMAN	8		HILBORN	50		NELSON	4		TURNER	8	
CHARLES	9		HITCHCOCK	1		NEUNABER	5		TUTTLE		
CONDON	20		HOLMES	2		NOEL	6		VACQUEREL	9	
COWDEN	1		HOWARD	135		O'DONNELL	136		VAN DYKE	120	
CROSS			HUESTIS	3		OHLEYER	7		VAN VOORHIES	1	
CROUCH	2		HUGHEY	4		O'SULLIVAN	8		WALKER of Marin.	2	
DAVIS	3		HUNTER	5		OVERTON	9		WALKER of Tuolumne.	3	
DEAN	138		INMAN	6		PORTER	90		WATERS	4	
DOWLING	139		JOHNSON	7		PROUTY	1		WEBSTER	5	
DOYLE	4		JONES	8		PULLIAM	2		WELLER	6	
DUDLEY of San Joaquin and Amador.	5		JOYCE	9		REDDY			WELLIN	7	
DUDLEY of Solano.	6		KELLY	60		REED	3		WEST	8	
DUNLAP	7		KENNY			REYNOLDS	4		WICKES	9	
EAGON	1		KEYS	1		RHODES	5		WHITE	130	
EDGERTON	8		KLEINE	2		RINGGOLD	6		WILSON of Tehama.	1	
ESTEY of Contra Costa and Marin.	9		LAINE	3		ROLFE	7		WILSON of First District.	2	
ESTEE of First District.	30		LAMPSON	4		SCHELL	8		WINANS	3	
EVEY	1		LARKIN	5		SCHOMP	9		WYATT	4	
FARRELL	2		LARUE	6		SHAFTER	100		MR. PRESIDENT	134	

Ayes _____

Noes _____

Leave of Absence

Mr. Stewart was granted leave of absence on account of sickness ~~and~~ Messrs Duffy, O'Donnell and Kenney were granted one day's leave of absence

On motion of Mr. Hilborn the reading of the journal was dispensed with and the same approved.

Mr. Caples by leave presented the following resolution, which was adopted:

Resolved: That the Secretary of State, be requested to furnish this convention with a detailed statement of the items of Stationery and other articles, and the value thereof in money, supplied to each member of this Convention

Reports

(4)

Mr President — Your Committee on Mileage and Contingent expenses to whom was referred Resolution No 57 introduced by Mr Eagon, relating to paying James Sanetry as Night watchman have had the same under consideration and herewith report the same back and recommend that it be adopted

S. G. Wilborn
Chairman

The report received and the following resolution was taken up and adopted.

Resolved: That the Controller of State be and he is hereby directed to draw his warrant in favor of James Sanetry, for one hundred and five dollars for twenty one days services as night watchman, and the State Treasurer to pay the same out of the appropriation for the expenses of this convention

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By Mr. Winans

To the Hon. S. R. Hage
President of the Convention

The Committee on Education respectfully report back to the Convention Amendment No. 231 proposed by Mr. Webster and recommend that it be referred to the Committee on Revenue and Taxation

Winans
Chairman

The Report was received and the reference ordered

On motion of Mr. Smith of Santa Clara the committee on Land and Homestead Exemption was granted further time to report

By Mr. Wilson

Mr. President

Your Committee on Judiciary and Judicial

6) Department, to whom were referred Sections seven (7), eight (8), nine (9), thirteen (13) and fourteen (14) of amendment. No 402 reported by the Committee on Preamble and Bill of Rights, beg leave to report that they have had the same under consideration and recommend that they be not adopted, but that the sections hereinafter annexed be adopted in lieu thereof

November 1st 1878

S. M. Wilson
Chairman

Sec. 7 - The right of trial by jury shall be secured to all, and remain inviolate; but in civil actions and in cases of misdemeanor, where the punishment does not exceed six months imprisonment or a fine of five hundred dollars or both, there

7 fourths of the jury may render a verdict

A trial by jury may be waived in all criminal cases not amounting to a felony, by the consent of both parties in open court expressed, and in civil ~~cases~~ cases by the consent of the parties, signified in such manner as may be prescribed by law

In civil cases and cases of misdemeanor, the jury may consist of any number, less than twelve, that the parties may agree upon in open court.

Section 8 – Offenses heretofore required to be prosecuted by indictment, shall be prosecuted by indictment or information as may be prescribed by law; but a grand jury shall be drawn and summoned at least once a year in each county

Sec. 9 – Every citizen may

freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right: and no law shall be passed to restrain or abridge the liberty of speech or of the ~~press~~ press. In all criminal prosecutions, for libels the truth may be given in evidence to the jury and if it shall appear to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the party shall be acquitted: and the jury shall have the right to determine the law and the fact.

Section 13 - In criminal prosecutions in any court

Whatever the party accused shall have a right to a speedy and public trial and to appear and defend in person and with counsel.

No person shall be subject to be twice put in jeopardy for the same offense. Nor shall he be compelled in any criminal case, to be a witness against himself; nor be deprived of life, liberty or property without due process of law.

Section 14. Private ~~property~~ property shall not be taken for public use without just compensation, having ~~first~~ been first made to, or paid into Court for, the owner.

The Report was recieved and on motion of Mr. Lane the proposed amendments were

ordered printed and made the special order for Tuesday Nov. 5th after the reading the journal

Proposed amendments.

By Mr. Wellin. No 463

Relative to Officers

Referred to the committee on Miscellaneous subjects

By Mr. Cassedy No 464

Relating to Legislative Department

Referred to the committee on Legislative Department

By Mr. Frend. No 465

Relating to Public works

Referred to the committee on State institutions and Public Buildings

By Mr. Beerstecher. No #66
Relating to foreigners

Referred to the Committee on Chinese

By Mr. Vacquerel, No 467
Relating to city, county and township organizations

Referred to the Committee on City, County and township organization

Resolution
By Mr. Smith of Santa Clara

Resolved: that the judiciary committee be requested to inform the convention (at an early date.

12)

tical period) whether the convention has any legal right to submit the Constitution for ratification, in such division as the convention may determine

Adopted

By Mr. Barnes.

Resolved: That Edward Wason be and he is hereby allowed the sum of eighty eight dollars for services as porter twenty two days in carrying for the committee rooms, and that the same be paid out of the appropriation made for the convention.

I hereby certify that I employed Edward Wason and that he has worked as Porter for the

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Committee rooms twenty two days. That he began working on October 10th in cleaning and getting rooms for committees ready for use, and has taken care of same, and done such other work as was required of him since that time. The work was necessary, and respectfully recommend that it be allowed.

Oct. 31st

J. J. Sherwood
Sergeant at arms

By Mr. Burstches

Resolved - That Carl C. Jinkins be allowed ten dollars, for two days services as clerk of the Judiciary Committee of this convention, rendered at the request of said com-

14) mittee through its chairman, prior to his official appointment, viz: on the 17th & 18th of October 1878, which two days services were not included in the payroll heretofore certified to.

Both the above resolutions were referred to the Committee on Mileage and Contingent expenses

On motion of Mr. Miller the report of the Committee on Chinese was made the special order for Tuesday next, immediately after the report of the Committee on Corporations other than municipal, is disposed of.

Mr. VanDyke moved to make the amendment No 402 being the Preamble and Bill of Rights, the special order for Tuesday Nov 3rd after reading the journal.

Mr. Finnin moved that the Convention resolve itself into Committee of the whole to consider amendment No 402 commencing at section Seven.

The motion prevailed and the Convention went into Committee of the whole the President in the Chair

At Eleven o'Clock and fifty nine minutes a.m. the Committee arose, reported progress, and asked leave to sit again

Recess

The hour of twelve o'Clock on Saturday arrived the Convention took a recess for two hours

Afternoon Session

Convention re-assembled at two o'clock P. M.

President Hoge in the chair

Quorum present.

Mr. Wellin gave notice of amendment to rule one by substituting nine o'clock instead of ten o'clock as the hour of meeting

also amendment to rule two, shortening the hour of recess.

Laid over one day

On motion of Mrs. Edgerton the Secretary of the Convention was granted two days leave of absence.

On motion of Mrs Van Dyke the Convention

resolved itself into committee of the whole, the president in the Chair, to consider Amendment No 402. being Preamble and Bill of Rights

At three o'clock and thirty minutes P.M. the committee rose and reported the amendment No 402 back with certain amendments.

Mr. Van Dyke moved that the Preamble and Bill of Rights be made the Special order for Tuesday Nov. 5th

Carried

Mr. White moved that the Preamble and Bill of Rights be re-printed with the amendments made in committee of the whole.

So ordered.

At three o'clock and thirty five minutes P.M. on motion of Mr. Glenesties the Convention adjourned

11/1/78

Nov 1

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