

On Convention  
Assembly Chamber  
State Capitol

Sacramento

Wednesday Nov. 6<sup>th</sup> 1878

Convention met pursuant  
to adjournment

President ~~of~~ in the Chair

the <sup>was</sup> Roll called and

the following members

were present ~~that~~

2

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

NAMES.	Ayes	Noes	NAMES.	Ayes	Noes	NAMES.	Ayes	Noes	NAMES.	Ayes	Noes
ANDREWS	1		FAWCETT	1		LAVIGNE	2		SHOEMAKER	5	
AYERS	2		FILCHER	2		LEWIS	131		SHURTLEFF	6	
BARBOUR	3		FINNEY	3		LINDOW	3		SMITH	7	
BARNES	4		FREEMAN	126		MANSFIELD	4		<small>of Santa Clara.</small>	8	
BARRY	1		FREUD	4		MARTIN	5		<small>of Fourth District.</small>	9	
BARTON	5		GARVEY	5		<small>of Alameda.</small>	6		<small>of San Francisco.</small>	100	
BEERSTECHER	6		GLASSCOCK	6		<small>of Santa Cruz.</small>	6		SOULE	100	
BELCHER			GORMAN	7		McCALLUM	7		STEDMAN	1	
BELL	7		GRACE	8		McCOMAS	8		STEELE	2	
BERRY			GRAVES	1		McCONNELL	9		STEVENSON	3	
BIGGS			GREGG	9		McCOY	20		STRONG	4	
BLACKMER	8		HAGER	40		McFARLAND	1		STUART	5	
BOGGS	9		HALE			McNUTT	1		SWEASEY	6	
BOUCHER	10		HALL	1		MILLER	2		SWENSON	7	
BROWN	1		HARRISON	2		MILLS	3		SWING	8	
BURT	2		HARVEY	2		MOFFAT			TERRY	9	
CAMPBELL	3		HEISKELL	4		MORELAND	4		THOMPSON	110	
CAPLES	132		HEROLD	5		MORSE	5		TINNIN	1	
CASSERLY	4		HERRINGTON	6		MURPHY	1		TOWNSEND	2	
CHAPMAN			HILBORN	7		NASON	6		TULLY	3	
CHARLES	5		HITCHCOCK	8		NELSON	7		TURNER	4	
CONDON	6		HOLMES	9		NEUNABER	8		TUTTLE	present	
COWDEN	7		HOWARD	1		NOEL	9		VACQUEREL	5	
CROSS	8		HUESTIS	50		O'DONNELL	80		VAN DYKE	6	
CROUCH	133		HUGHEY	1		OHLEYER	1		VAN VOORHIES	7	
DAVIS	9		HUNTER	2		O'SULLIVAN	2		WALKER	8	
DEAN	135		INMAN	3		OVERTON	3		<small>of Marin.</small>	9	
DOWLING	20		JOHNSON	4		PORTER	4		<small>of Tuolumne.</small>	120	
DOYLE	1		JONES	134		PROUTY	5		WEBSTER	1	
DUDLEY	2		JOYCE	5		PULLIAM	6		WELLER	2	
<small>of San Joaquin and Amador.</small>			KELLY	6		REDDY	7		WELLIN	3	
DUDLEY	2		KENNY			REED	8		WEST	4	
<small>of Solano.</small>			KEYS	7		REYNOLDS	1		WICKES	5	
DUNLAP	4		KLEINE	8		RHODES	9		WHITE	6	
EAGON	5		LAINÉ	9		RINGGOLD	20		WILSON	7	
EDGERTON	6		LAMPSON	60		ROLFE	1		<small>of Tehama.</small>	8	
ESTEY	7		LARKIN	1		SHELL	2		<small>of First District.</small>	9	
<small>of Contra Costa and Marin.</small>			LARUE			SCHOMP	3		WINANS	9	
ESTEE	8					SHAFTER	4		WYATT	120	
<small>of First District.</small>									MR. PRESIDENT	1	
EVEY	9										
FARRELL	30										

AYES -----  
 NOES -----

3) on motion of Mr. Finnan the reading of the Journal was dispensed with, and the same approved.

Mr. Beerstecher presented a protest from the Independent German Congregation of San Francisco, against the exemption of Church property, the compulsory observance of the Sabbath, and the insertion recognition of the Christian God and his so called revelation as the source of all moral as well as of civic power.

Referred to the Committee on Legislative Department

Mr. Laine was granted ~~one day's~~ leave of

4) Absence for one day

Mrs. Estee presented a resolution to pay W. Clock for services as Porter.

Referred to the Committee on Mileage and Contingent Expenses.

Mrs. Swearey presented a petition from the California State Woman's Suffrage Educational Association.

Referred to the Committee on Right of Suffrage.

Mr. Wilson from the Committee on Judiciary and Judicial Department

5) presented the following report.  
To the President  
of the Constitutional Convention

Your Committee  
on the Judiciary and Judicial  
Department, to whom was referred  
Resolution No 65, instructing  
this Committee to enquire and  
report their opinion as to whether  
the provisions of the Constitution  
of the United States relating  
to trials by jury, apply to state  
courts, and the administration  
of the laws of the State, beg  
leave to report that the same  
has been duly considered and  
that in the opinion of the Committee  
the provisions of the Con-  
stitution of the United  
States relating to trials  
by jury do not apply to

6) The State courts, nor to the  
administration of the laws  
of the State in those courts.

Nov. 9<sup>th</sup> 1878

Respectfully submitted

S. M. Wilson  
Chairman

By. Mrs. Winans.



7

To the Honorable Joseph  
R. Hoze President

The Committee  
on Education respectfully  
reports back to the Convention  
Proposed Amendments No.  
116 introduced by Mr Harrison;  
No 117 introduced by Mr  
Harrison; No 234 introduced  
by Mr Wickes; No 381 intro-  
duced by Mr H. H. Smith;  
No 440 introduced by Mr Jones  
and No 405 introduced by  
Mr Lindow

with the recommendation  
that they be not adopted  
because they embrace matters  
proper for legislative rather  
than Constitutional enactment

Wm  
Chairman

8)  
Mr. Proarty presented a petition  
for a Local Option Law.

Referred to the committee  
on city, county and township  
organizations

Proposed amendment  
By Mr. Doyle - No 486

For the establishment  
of a Board of Police Commis-  
sioners for the city & County of San  
Francisco.

Referred to the committee  
on city, county and township  
organization

Resolutions  
By Mr. Hayer

Resolved: That the Sur-  
veyor General, be requested  
to inform this convention

9) as near as we can approxi-  
mate the same of the number  
of square miles of territory contained  
in each of the counties of this  
State.

adopted

By Mr. Cross

Resolved: That the  
President be and he is hereby  
authorized and requested to  
appoint an assistant journal  
clerk, at a salary of six  
dollars per day.

Referred to the committee  
on Mileage and Contingent expenses

Amendment

By Mrs. Smith of Santa Clara  
No 487

10)

Restrictions in removing  
County seats.

Referred to the Committee  
on City, County and County  
Organizations

By Mr. O'Donnell, No 488

To locate permanently the  
Capitol of the State of the State  
of California

Referred to the Committee  
on Miscellaneous <sup>Subjects</sup> ~~Subjects~~

On Motion of Mr. Wilson  
The following report of the  
Committee on Judiciaries  
and Judicial Department  
was taken from the table

11)

and the resolutions accompanying the same were adopted.



12)

MR. PRESIDENT: Your Committee on Judiciary, to whom was referred the question as to the meaning and construction of the Act of the State Legislature calling this Convention, in regard to the fund for funds chargeable with the cost of printing, stationery, etc., necessary for said Convention, respectfully report that we had the same under consideration, and that it is the opinion of the Committee that under the Act it is the duty of the Secretary of State to furnish the members of the Convention with stationery, and that the same is chargeable to the twenty-five thousand dollars appropriated "for stationery, fuel, lights, etc., for the Legislature and State officers, etc."

This conclusion is arrived at by construing the Act making the general appropriations with the Act calling the Convention. (See Stats. 1877-8, p. 1007, third item from bottom of page; same Stats., p. 1008, § 2, and page 763, § 5.) Reading these sections and provisions together lead us to the opinion above expressed.

*Second*—As to the printing, it is our opinion that it is chargeable to the one hundred thousand dollars appropriated for support of the State Printing Office. (See Stats. 1877-8, p. 1007, § 1, twelfth item from top of page.) See also same Stats., p. 765, § 10, by which the printing is directed to be done at the State Printing Office, and the Convention is not given control of it nor required to audit the accounts therefor, but that power is confined to the pay of members, employes, etc.

This view is strengthened by the fact that the Controller's estimate for the State Printing Office for the two years ending June thirtieth, eighteen hundred and eighty, was the sum of seventy-five thousand dollars (see last Report of the Controller, p. 131), while the appropriation was one hundred thousand dollars (see Stats. 1877-8, p. 1007, before cited). This large appropriation leads us to the conclusion that the printing for the Convention was included; and this is strengthened by the fact that there was only one hundred and fifty thousand dollars specially appropriated for the expenses of the Convention, and their pay was fixed at ten dollars per day, and the number fixed at one hundred and fifty-two members, while one hundred days are allowed them to sit, when it must have been apparent to the Legislature that one hundred and fifty thousand dollars would have been greatly inadequate to pay all the expenses of the Convention for a much shorter time than one hundred days.

*Third*—All other expenses of the Convention must, in our judgment, be paid out of the special appropriation of one hundred and fifty thousand dollars made in the Act calling the Convention.

All of which is respectfully submitted.  
Oct. 23d, 1878.

S. M. WILSON,  
Chairman Judiciary Committee.

*Resolved*, That under the law of the State calling this Convention, the stationery furnished members by the Secretary of State is chargeable to the appropriation of twenty-five thousand dollars made "for stationery, fuel, lights, etc.," and not to the special appropriation of one hundred and fifty thousand dollars made in said Act calling the Convention; and that the printing is chargeable to the appropriation of one hundred thousand dollars for the support of "State printing," and not against the one hundred and fifty thousand dollar appropriation aforesaid; and be it further

*Resolved*, That the President of the Convention be instructed to take such steps as he may deem necessary to be taken in the premises to carry into practical effect the foregoing resolution.

13)

in motion of  
Mrs. Vanduyke the convention  
resolved itself into the com-  
mittee of the whole - President Hoge  
in the Chair, - to further consid-  
er the Preamble and Bill of  
Rights.

at Eleven o'clock and fifty nine  
minutes A.M. the committee  
rose, reported progress, and asked  
leave to sit again.

### Recess

The hour of twelve o'clock on  
sunday arrives the convention  
took a Recess for two hours.

### Afternoon Session

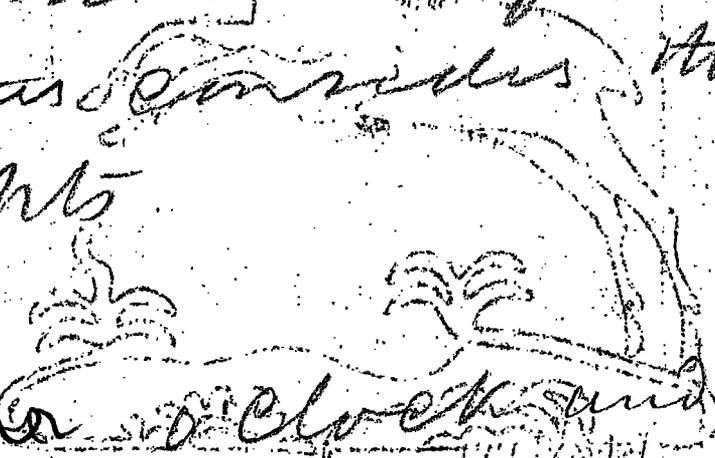
The convention re-assembled  
at two o'clock P.M.

President Hoge in the Chair

Quorum present

Mrs. Ester presented a Petition from numerous citizens of each ward that a section be added <sup>to the Constitution</sup> declaring the Sabbath ~~to~~ a Day of Rest.

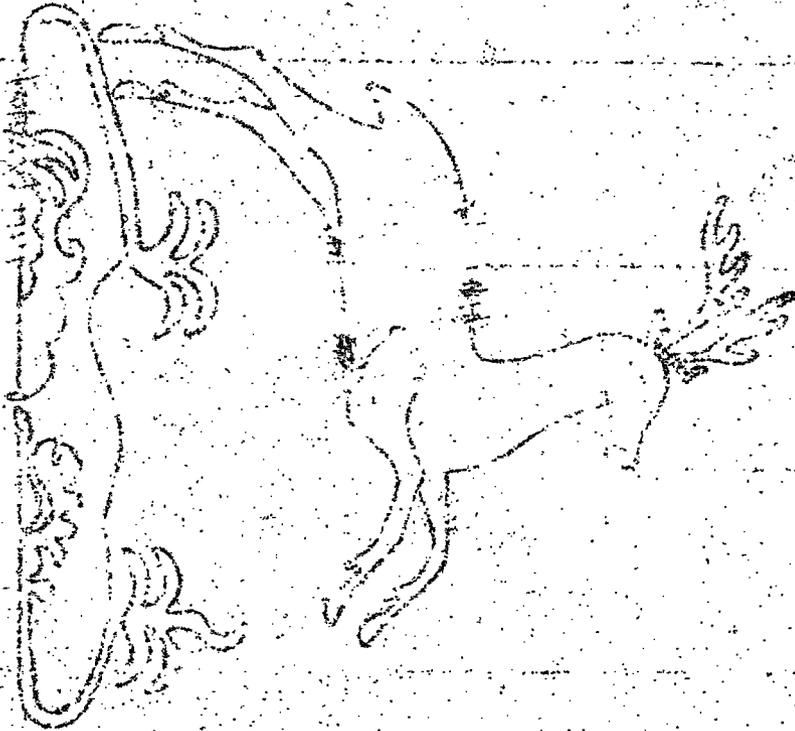
Referred to the Committee on Miscellaneous Provisions on a motion of Mrs. Van Dyke the Convention resolved itself into Committee of the whole to further consider the Bill of Rights.



at four o'clock and fifty seven minutes P. M. the Committee rose, ~~and~~ reported

at four o'clock and fifty eight minutes P. M. on motion of Mrs. Van Dyke the Convention adjourned.

11/6/78



Hand-drawn

86/9/11