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In Convention  
Assembly Chamber  
State Capitol

Sacramento

Tuesday Dec. 3<sup>d</sup> 1878

Convention met pursuant to adjournment

Roll called and the following members were 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	12		LAVIGNE	9		SHOEMAKER	1	
AYERS			FILCHER	16		LEWIS	57		SHURTLEFF	8	
BARBOUR	1		FINNEY	8		LINDOW	1		SMITH	9	
BARNES	115		FREEMAN	4		MANSFIELD	2		<small>of Santa Clara.</small> SMITH	80	
BARRY	1		FREUD	5		MARTIN	3		<small>of Fourth District.</small> SMITH	1	
BARTON	1		GARVEY			<small>of Alameda.</small> MARTIN	4		<small>of San Francisco.</small> SMITH	1	
BEERSTECHEER	1		GLASSCOCK			<small>of Santa Cruz.</small> McCALLUM	1		SOULE	1	
BELCHER	2		GORMAN	6		McCOMAS	5		STEDMAN		
BELL	3		GRACE	1		McCONNELL	6		STEELE	2	
BERRY			GRAVES	1		McCOY			STEVENSON	3	
BIGGS			GREGG	9		McFARLAND	7		<del>STRONG</del>		
BLACKMER	4		HAGER	8		McNUTT	12		STUART	4	
BOGGS	5		HALE	1		MILLER	8		SWEASEY	5	
BOUCHER	1		HALL	114		MILLS	111		SWENSON	6	
BROWN	6		HARRISON	9		MOFFAT	9		SWING	1	
BURT	7		HARVEY	20		MORELAND	60		TERRY	7	
CAMPBELL	5		HEISKELL	1		MORSE	1		THOMPSON	8	
CAPLES	109		HEROLD	2		MURPHY	1		TINNIN	1	
CASSERLY			HERRINGTON	3		NASON	2		TOWNSEND	9	
CHAPMAN	8		HILBORN	11		NELSON			TULLY	90	
CHARLES	9		HITCHCOCK	5		NEUNABER			TURNER	1	
CONDON	10		HOLMES	6		NOEL	3		TUTTLE	2	
COWDEN	1		HOWARD	107		O'DONNELL	4		VACQUEREL	3	
CROSS	1		HUESTIS	7		OHLEYER	5		VAN DYKE	4	
CROUCH	2		HUGHEY	8		O'SULLIVAN	6		VAN VOORHIES	5	
DAVIS	3		HUNTER	9		OVERTON	7		WALKER	6	
DEAN	4		INMAN	40		PORTER	5		<small>of Marin.</small> WALKER	7	
DOWLING	5		JOHNSON	1		PROUTY	1		<small>of Tuolumne.</small> WALKER	1	
DOYLE	6		JONES	2		PULLIAM	9		WATERS		
DUDLEY	7		JOYCE	3		REDDY	30		WEBSTER	8	
<small>of San Joaquin and Amador.</small> DUDLEY	8		KELLY	4		REED	1		WELLER	9	
<small>of Solano.</small> DUNLAP	18		<del>KENNY</del>			REYNOLDS	2		WELLIN	100	
EAGON			KEYS	5		RHODES	3		WEST	1	
EDGERTON	9		KLEINE	117		RINGGOLD	4		WICKES	2	
ESTEY	110		LAINÉ	6		ROLFE	5		WHITE	119	
<small>of Contra Costa and Marin.</small> ESTEE	20		LAMPSON	7		SHELL	1		WILSON	3	
<small>of First District.</small> EVEY	1		LARKIN	8		SCHOMP	6		<small>of Tehama.</small> WILSON	4	
FARRELL	2		LARUE	108		SHAFTER	7		<small>of First District.</small> WILSON	5	
									WINANS	5	
									WYATT	6	
									Mr. PRESIDENT		

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

3)  
On motion of Mrs. Caples the  
reading of the Journal was  
dispensed with, and the  
same approved.

### Memorials.

By Mrs. Bell.

~~Memorial~~ Memorial of  
the Representative Assembly  
of Trades and Labor Unions  
of the Pacific Coast  
on the following subjects

First - The contract system  
and praying for a law  
prohibiting the same on  
Public works  
Second - against the letting  
state Prison Labor to con-  
tractors.

4)

Third - to prohibit children under 14 years of age from being employed in shops and factories.

and also regarding the adoption of certain articles reported by the Committee on Chinese, and on Corporations other than municipal.

Referred to the Committee on Miscellaneous subjects.

Also a Memorial from the Journeymen Steam Cutters Association of the Pacific Coast, against the Contract System of Labor on

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~~The~~ public work.

Ordered by the committee  
in miscellaneous subjects

## Report.

Mr. O'Donnell presents  
a minority report from the  
committee on Chinese, as  
follows:

~~And~~

CHINESE

6-7-8-9±10

MR. PRESIDENT: The undersigned, a member of the Committee on Chinese, asks leave to present the following minority report:

The power which, it is conceded, is possessed by the Legislatures of the respective States to pass quarantine regulations is conclusive of the right of a State to prevent the landing of criminals or paupers upon her soil.

If a State may, by virtue of her sovereignty, pass laws to quarantine a vessel for a single day then she has the power to continue such vessel in quarantine for an indefinite period. The

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power to prevent the landing of the cargo of such vessel, therefore, necessarily resides in the State.

I heartily concur in the report of the majority of the committee in respect to the necessity of preventing any further Chinese immigration. It is unanimously conceded by all parties—by native Americans as well as by citizens of Irish and German descent—that the coolie is a curse, and that some power should be invoked to prevent the further importation of the revolting creatures to these shores. Upon that point I fully acquiesce with the majority of your committee.

I disagree with them only as to the means to be employed to accomplish a great national result.

The cases in which the Supreme Court of the United States decided that foreign immigration into the United States ports was a regulation of commerce have no relation to the coolie question. Those cases referred to emigrants from European ports, and it was decided that in respect to such emigrants the question of their immigration was a commercial regulation, over which Congress possessed exclusive control.

I take the position that there is no analogy between those cases and the case of the coolie.

He is not an immigrant.

He is not eligible to American citizenship.

He is imported merely as a chattel.

He comes here under a contract to perform labor for a menial compensation.

The Southern slave was always better paid, better fed, and better educated than the coolie of Asia.

If the decision of the Supreme Court of the United States applies only to immigrants to the United States, how does it affect the power of the State to prevent the landing of a leper upon her shores?

I am distinctly in favor of a constitutional provision which shall empower the Legislature, by necessary enactments, to prohibit the coolie trade, and to prevent them from landing in any of the ports of California.

Such a provision would be opposed by certain members, upon the ground that it is unconstitutional.

They will pronounce it a regulation of commerce.

But suppose we incorporate it in the Constitution of California.

The question will then be presented to the Supreme Court of the United States for adjudication, and that tribunal will determine the question whether a sovereign State has or has not the power to prevent the importation of diseased persons or criminals into her ports.

With this view of the subject, I respectfully propose the following amendment to Article —  
The Legislature, at its first session after the adoption of this Constitution, shall pass all laws necessary to prevent the introduction of Chinese coolies into any port of this State, and may provide for the punishment of such offense as a felony.

Respectfully submitted,

C. C. O'DONNELL,  
Minority Committee on Chinese.

2. No alien of Asiatic descent shall ever be eligible to American citizenship, nor carry on any trade or occupation in the State of California; nor shall they be employed on any public work within this State.

11) The report was laid  
on the table.

Committee of the Whole.

On Motion of Mrs. Ester the  
Convention resolved itself  
into Committee of the Whole -  
President <sup>placed</sup> in the chair - to  
further consider the article  
on Corporations.

at 12 o'clock and  
ten minutes P.M. the  
Committee arose, reported  
progress, and asked leave  
to sit again.

12)

Recess.

at twelve o'clock and twelve minutes P. M. on motion of Mrs Ester the convention took a recess till two o'clock P. M.

Afternoon Session.

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

President <sup>pro tem</sup> Belcher in the chair

Quorum present.

Committee of the Whole

on Motion of Mrs. Ester the Convention resolved itself into Committee of the whole - President pro tem Belcher - in the chair to further consider the article on Cooperations.

at four o'clock and  
 twenty minutes P. M. the com-  
 mittee above reported progress  
 and asked leave to sit again.

Este moved that after the  
 convention adjourn it be to  
 have an evening session  
 at Four o'clock and twenty  
 two minutes P. M. Mrs. M. A. [unclear]  
 [unclear] [unclear] [unclear] [unclear]  
 Lost.

Mr. Este moved that  
 the convention take a  
 recess until seven  
 o'clock P. M.

Lost

Resolution

By Mr. Hilborn

resolved: That the sum  
 of thirty three <sup>480</sup>/<sub>100</sub> dollar be  
 appropriated out of the  
 funds for carrying on  
 this convention, to pay the  
 bill of the Pacific Ice Co.  
 for the month of ending  
 Dec. 1<sup>st</sup> 1878, and that the  
 warrant be drawn in  
 favor of the Sergeant at  
 Arms of this Convention

and <sup>Reported to the committee on mileage</sup> ~~independent~~ expenses  
 At four o'clock and

thirty minutes P. M. on  
 motion of Mr. Estes  
 the convention adj  
 ourned

12/3/78

*Handwritten signature*

*Handwritten signature*