In Convention

Assembly Chamber, State Capitol,

Sacramento

Saturday Dec. 7th 1878.

The Convention met
pursuant to adjournment

President Hoge in the Chair

Roll called, and the
following Members
were present —

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

Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.
ANDREWS	1		FAWCETT			LAVIGNE	5		SHOEMAKER	2	
AYERS	1		FILCHER	6		LEWIS	6		SHURTLEFF	3	
BARBOUR	1		FINNEY	7		LINDOW	7		SMITH of Santa Clara.	4	
BARNES	2		FREEMAN			MANSFIELD	8		SMITH of Fourth District.	5	
BARRY	1		FREUD	8		MARTIN of Alameda.			SMITH of San Francisco.	6	
BARTON	3		GARVEY	9		MARTIN of Santa Cruz.			SOULE	7	
BEERSTECHER	1		GLASSCOCK	30		McCALLUM	9		STEDMAN	8	
BELCHER	4		GORMAN	1		McCOMAS	60		STEELE	9	
BELL	1		GRACE			McCONNELL	1		STEVENSON	90	
BERRY			GRAVES			McCOY	2		~~STRONG~~		
BIGGS			GREGG	2		McFARLAND	1		STUART	1	
BLACKMER	5		HAGER	3		McNUTT	3		SWEASEY	2	
BOGGS	6		HALE	1		MILLER	4		SWENSON	3	
BOUCHER	7		HALL	4		MILLS	5		SWING	4	
BROWN	8		HARRISON	5		MOFFAT	6		TERRY	5	
BURT	9		HARVEY	6		MORELAND	7		THOMPSON	6	
CAMPBELL	10		HEISKELL	7		MORSE	114		TINNIN	7	
CAPLES	1		HEROLD	119		MURPHY	1		TOWNSEND		
CASSERLY	2		HERRINGTON	8		NASON	8		TULLY	1	
CHAPMAN	3		HILBORN	9		NELSON	1		TURNER	8	
CHARLES	1		HITCHCOCK	40		NEUNABER	9		TUTTLE	9	
CONDON	4		HOLMES	1		NOEL	30		VACQUEREL	100	
COWDEN			HOWARD	118		O'DONNELL			VAN DYKE		
CROSS	115		HUESTIS	2		OHLEYER	1		VAN VOORHIES	1	
CROUCH	5		HUGHEY	3		O'SULLIVAN	2		WALKER of Marin.	2	
DAVIS	6		HUNTER	4		OVERTON	3		WALKER of Tuolumne.	3	
DEAN	7		INMAN	5		PORTER			WATERS	4	
DOWLING			JOHNSON	6		PROUTY	4		WEBSTER	5	
DOYLE	8		JONES	7		PULLIAM			WELLER	6	
DUDLEY of San Joaquin and Amador.	9		JOYCE	8		REDDY	1		WELLIN	7	
DUDLEY of Solano.	20		KELLY	9		REED	5		WEST	8	
DUNLAP	1		~~KENNY~~			REYNOLDS	6		WICKES	9	
EAGON	1		KEYS	50		RHODES	7		WHITE	110	
EDGERTON	2		KLEINE	1		RINGGOLD	8		WILSON of Tehama.	1	
ESTEY of Contra Costa and Marin.	3		LAINE	1		ROLFE	9		WILSON of First District.		
ESTEE of First District.	4		LAMPSON	2		SCHELL			WINANS	✓	
EVEY	5		LARKIN	3		SCHOMP	80		WYATT	2	
FARRELL	1		LARUE	4		SHAFTER	1		MR. PRESIDENT	113	

Ayes _____

Noes _____

(3)

Leave of absence.

Leave of absence was granted to Mrs. Evans for one day, and to Mrs. Winns for 4 days.

On motion of Mrs Brown the reading of the journal was dispensed with and the same approved.

Report.

By Mrs. Estes.

4)

Sacramento
Dec 7th 1878

Mr President

Your committee on corporations other than municipal respectfully report back to the convention sec 20 of their report amended in accordance with the instructions of the convention ~~and~~ ~~yours~~

And also recommend that sec 21 be stricken out

Yours
M M Estee
V. E. Howard
Clifton Bardeau
Wm F. White
John P. West
J. V. Webster
Geo Steele
Jno. M. Rhodes
Jas. E. Dean
~~[illegible]~~

5) Sec. 20 - The state shall be divided into ~~three~~ districts as nearly equal in population as practicable, in each of which one Railroad Commissioner shall be elected by the qualified electors of this respective district, at the regular gubernatorial elections, whose ~~term of office~~ salary shall be fixed by law and whose term of office shall be four years. Said Commissioners shall be qualified electors

6) of this state and of the district from which they are elected, and shall not be interested in

5 any railroad corporation, or other transportation company, as stockholder,

6 creditor, agent, attorney, or employe, and the act of a majority of said Com-

7 missioners shall be deemed the act of said Commission. Said Commissioners

8 shall have the ~~sole~~ power, and it shall be their duty, ~~to correct abuses by rail-~~

9 ~~road corporations or other transportation companies~~; to establish rates of charges

10 for the transportation of passengers and freight by railroad or other transpor-

11 tation companies, and publish the same from time to time, with such changes

12 as they may make; and determine

as they may make; to examine the books, records, and papers of all railroad and other transportation companies, and for this purpose they shall have process of the Courts; to hear complaints against railroad and other transportation companies, to send for persons and papers, administer oaths, take testimony and punish for contempt

of this order and processes in the same manner and to the same extent as courts of record, and enforce their decisions, and correct abuses through the medium of the courts.

Said commissioners shall prescribe a uniform

7) System of accounts to be kept by all such corporations and companies, and they shall keep this accounts according to such system, any railroad ~~company~~ corporation or transportation company, which shall fail or refuse to conform to such rules as shall be established by such commissioners, or shall charge rates in excess thereof, or shall fail to keep this accounts in accordance with the system prescribed by the commissioners shall be fined not exceeding $20.000. for each offence, and every officer, agent or employee

8) of any such corporation or company who shall demand or receive fares in excess thereof or who shall in any manner violate the provisions of this section shall be fined not exceeding $5000 or imprisoned in the county jail not exceeding one year.

In all controversies civil or criminal the rates of fare and freights established by said commission shall be deemed conclusively just and reasonable and in any action against such

4/

corporation or company for damage sustained by charging excessive rates, the plaintiff in addition to the actual damage may in the discretion of the judge or jury recover exemplary damages.

Said commissioners shall

law; to report to the Governor, annually, their proceedings and such other facts as may be deemed important. Nothing in this section shall prevent individuals from maintaining actions against any of such companies.

The Legislature may in addition to the penalties herein prescribed enforce this article by forfeiture of charters or otherwise, and may confer such further powers on the commissioners as shall be

10)

necessary to enable them to ~~enf~~ perform the duties enjoined on them in this and the foregoing sections.

The Legislature shall have power by a two thirds vote of all the members elected to each house to remove any one or more of said commissioners from office for dereliction of duty, or corruption or incompetency; and whenever from any cause a vacancy in office shall occur in said commission the Governor shall fill

the same by the appointment of a qualified person thereto who shall hold office for the residue of the unexpired term, and until his successor shall have been elected and qualified

The report was received and, with the proposed section, referred to the committee of the whole.

Mr Shafter moved to ~~recall from the~~ recognize the vote referring to the committee of the

12) whole, the report of the committee on corporations made this day.

Mr. Grimm moved to lay this motion on the table.

Mr. Steadman made a point of order that the motion to reconsider could not be made this day

The point of order decided well made.

Mr. Shufelt moved to recall from the committee of the

13) ~~Committee of the whole~~
the section reported this
day by the committee
on Corporations after
the Municipal
Lost.

Committee of the whole.
On motion of Mr Estee
the Convention resolved
itself into committee
of the whole — President
Hoge in the chair — to further
consider the articles on
Corporations

14)

at 8 o'Clock and
minutes P.M. the
Committee arose, reported
the articles of corporation
back with certain amend-
ments.

In Convention.

~~On Motion of~~ Mr. Eustis
moved that 960 copies of
the articles of Corpora-
tions with the amend-
ments be printed.
so ordered.

Report

By Mr Hazen.

Report

The Committee on City County and Township Organization have had under consideration the subject matter and the various propositions referred to them, and herewith report a number of propositions with the recommendation that they be adopted by the convention and incorporated in the proposed constitution under a separate article & heading as follows:

"Article no. ——

"Counties Townships - Cities and Towns"

The propositions relating to cities having more than one hundred thousand inhabitants, being only applicable to the City & County of San Francisco, are reported by the committee for the consideration of the convention with the understanding that each member of the committee is free to vote for or against the same.

The committee report back the propositions referred to them numbered as follows.
Nos. 7. 8. 160. 216. 313. 315. 349. 376. 411. 422. 429. 434. 438 ~~467~~ 453. 467. 472. 479. 486. 487. 495. 497. & 505

with the recommendation that they be laid on the table.
Respectfully submitted
Jno. J. Hager
Chairman

Dec. 7. 1878

Report of
Committee on
City, County &
Township Organ-
ization —

Hayes

17) Report received and the proposed article read and ordered printed. and placed on File.

By Mr Mazer.

18 & 19

The Committee on City, County, and Township Organizations have had under consideration a number of petitions and memorials asking that the following proposition be inserted in the new Constitution, to wit:

"SECTION ——. The Legislature shall, at its first session, enact a law whereby the qualified voters of any county, voting precinct, town, or city, by a majority vote, from time to time, may determine whether the sale of intoxicating liquors shall be prohibited within the prescribed limits."

And the committee, being equally divided in opinion at the time it was considered in the presence of eight members thereof, instruct me to report the petitions and memorials back, with the recommendation that the above proposition be committed to the Committee of the Whole for further consideration and action.

Respectfully submitted.

JNO. S. HAGER, Chairman.

December 7, 1878.

20

Report received and referred to the committee of the whole.

Resolution

By Mr. Barnes.

Whereas, the appropriation for the expenses of this convention is now nearly exhausted, and the session is likely to be prolonged to the limit expires in the act of the Legislature convening this body and perhaps beyond it: Resolved that when

21)

payments from said appropriation shall reduce the balance in the State Treasury to the sum of $7000 The President be and he is hereby directed not to certify any pay roll for the per diem of members and that said unexpended balance be reserved exclusively to the expenses of the convention other than per diem of members, and to the payment of salaries and wages of employes.

Mr Brown moved to lay the resolution on the

22) table upon which the ayes and noes were demanded by messrs Burnes, Casserly, Freud Edgerton and Walker of Plumine.

The roll was called and the resolution laid on the table by the following vote,

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

Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.
ANDREWS	1		FAWCETT			LAVIGNE	39		SHOEMAKER	56	
AYERS	2		FILCHER	20		LEWIS		23	SHURTLEFF		36
BARBOUR	3		FINNEY		12	LINDOW	40		SMITH of Santa Clara.		
BARNES		1	FREEMAN			MANSFIELD			SMITH of Fourth District.		37
BARRY	4		FREUD		13	MARTIN of Alameda.			SMITH of San Francisco.	57	
BARTON	5		GARVEY		14	MARTIN of Santa Cruz.			SOULE		38
BEERSTECHER		2	GLASSCOCK	21		McCALLUM	41		STEDMAN	58	
BELCHER		3	GORMAN	22		McCOMAS	42		STEELE	59	
BELL			GRACE			McCONNELL	43		STEVENSON		39
BERRY			GRAVES			McCOY	44		~~STRONG~~		
BIGGS			GREGG	23		McFARLAND		24	STUART		
BLACKMER		4	HAGER			McNUTT		25	SWEASEY	60	
BOGGS		5	HALE		15	MILLER		26	SWENSON		
BOUCHER	6		HALL		16	MILLS	45		SWING	6	40
BROWN	7		HARRISON	24		MOFFAT	46		TERRY		
BURT	8		HARVEY		17	MORELAND	47		THOMPSON	61	
CAMPBELL	9		HEISKELL	25		MORSE	48		TINNIN		41
CAPLES		6	HEROLD	26		MURPHY		27	TOWNSEND		42
CASSERLY		7	HERRINGTON	27		NASON			TULLY		
CHAPMAN		8	HILBORN		18	NELSON	49		TURNER		43
CHARLES			HITCHCOCK			NEUNABER	50		TUTTLE	62	
CONDON	10		HOLMES	28		NOEL	51		VACQUEREL	63	
COWDEN			HOWARD		19	O'DONNELL			VAN DYKE		
CROSS	11		HUESTIS		20	OHLEYER	52		VAN VOORHIES		44
CROUCH	12		HUGHEY	29		O'SULLIVAN	5	28	WALKER of Marin.		
DAVIS	13		HUNTER	30		OVERTON			WALKER of Tuolumne.		45
DEAN	14		INMAN	31		PORTER		29	WATERS	64	
DOWLING			JOHNSON		21	PROUTY	53		WEBSTER	65	
DOYLE	15		JONES	32		PULLIAM			WELLER	66	
DUDLEY of San Joaquin and Amador.			JOYCE	33		REDDY		30	WELLIN	67	
DUDLEY of Solano.		9	KELLY	34		REED		31	WEST	68	
DUNLAP		10	~~KENNY~~			REYNOLDS		32	WICKES	69	
EAGON			KEYS	35		RHODES		33	WHITE	70	
EDGERTON		11	KLEINE	36		RINGGOLD			WILSON of Tehama.		46
ESTEY of Contra Costa and Marin.	16		LAINE			ROLFE	54		WILSON of First District.		
ESTEE of First District.	17		LAMPSON		22	SCHELL		34	WINANS		
EVEY	18		LARKIN	37		SCHOMP	55		WYATT	71	
FARRELL	19		LARUE	38		SHAFTER		35	MR. PRESIDENT		47

AYES 71

NOES 47

at twelve o'Clock and thirty minutes P. M. Mr. Murphy moved to adjourn.

Lost

At twelve o'Clock and thirty two minutes P. M. Mr. Howard moved to adjourn till Monday Dec. 9th 1878 at two o'Clock P. M. upon which the ayes and noes were demanded by Messers. Steadman Hunter, Larkin, Murphy and Burbous.

The roll was called and the motion lost by the following vote

26

47
53

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

Names.	Ayes	Noes	Names.	Ayes	Noes	Names.	Ayes	Noes	Names.	Ayes	Noes
ANDREWS		1	FAWCETT			LAVIGNE		41	SHOEMAKER		62
AYERS	1		FILCHER		21	LEWIS		42	SHURTLEFF		63
BARBOUR		2	FINNEY		22	LINDOW		43	SMITH of Santa Clara.		
BARNES	2		FREEMAN			MANSFIELD			SMITH of Fourth District.		64
BARRY		3	FREUD		23	MARTIN of Alameda.			SMITH of San Francisco.		65
BARTON		4	GARVEY	11		MARTIN of Santa Cruz.			SOULE		66
BEERSTECHER	3		GLASSCOCK		24	McCALLUM		44	STEDMAN		67
BELCHER	4		GORMAN		25	McCOMAS		45	STEELE		68
BELL			GRACE			McCONNELL		46	STEVENSON		69
BERRY			GRAVES			McCOY		47	~~STRONG~~		
BIGGS			GREGG	12		McFARLAND	21		STUART		
BLACKMER		5	HAGER	13		McNUTT	22		SWEASEY	30	
BOGGS	5		HALE			MILLER	23		SWENSON		
BOUCHER		6	HALL	14		MILLS	24		SWING		70
BROWN		7	HARRISON		26	MOFFAT		48	TERRY		
BURT		8	HARVEY	15		MORELAND		49	THOMPSON		71
CAMPBELL	6		HEISKELL		27	MORSE		50	TINNIN		72
CAPLES		9	HEROLD		28	MURPHY	25		TOWNSEND	31	
CASSERLY	7		HERRINGTON		29	NASON			TULLY		
CHAPMAN		10	HILBORN	16		NELSON		51	TURNER	32	
CHARLES			HITCHCOCK			NEUNABER		52	TUTTLE		73
CONDON		11	HOLMES		30	NOEL		53	VACQUEREL		74
COWDEN			HOWARD	17		O'DONNELL			VAN DYKE		
CROSS		12	HUESTIS		31	OHLEYER		54	VAN VOORHIES	33	
CROUCH		13	HUGHEY	18		O'SULLIVAN		55	WALKER of Marin.		
DAVIS		14	HUNTER		32	OVERTON			WALKER of Tuolumne.	34	
DEAN		15	INMAN		33	PORTER	26		WATERS		75
DOWLING			JOHNSON		34	PROUTY		56	WEBSTER		76
DOYLE		16	JONES		35	PULLIAM			WELLER		77
DUDLEY of San Joaquin and Amador.			JOYCE		36	REDDY	27		WELLIN		78
DUDLEY of Solano.	81		KELLY		37	REED		57	WEST		79
DUNLAP		17	~~KENNY~~			REYNOLDS		58	WICKES		81
EAGON			KEYS	19		RHODES		59	WHITE		80
EDGERTON	9		KLEINE		38	RINGGOLD			WILSON of Tehama.		82
ESTEY of Contra Costa and Marin.		18	LAINE			ROLFE		60	WILSON of First District.		
ESTEE of First District.	10		LAMPSON	20		SCHELL	28		WINANS		
EVEY		19	LARKIN		39	SCHOMP		61	WYATT		83
FARRELL		20	LARUE		40	SHAFTER	29		MR. PRESIDENT		

AYES ~~82~~ 34

NOES 24 ~~83~~

2) was at twelve o'clock and forty minutes P.M. Mr. Heikell moved to adjourn upon which the ayes and noes were demanded by Messrs Larkin, Steadman Hunter, Andrews and McCallum.

The roll was called and the motion prevailed by the following vote

28

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

Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.
ANDREWS		1	FAWCETT			LAVIGNE		25	SHOEMAKER	55	
AYERS	1		FILCHER		14	LEWIS		26	SHURTLEFF		35
BARBOUR	2		FINNEY		15	LINDOW		27	SMITH of Santa Clara.		
BARNES			FREEMAN			MANSFIELD			SMITH of Fourth District.		36
BARRY	4		FREUD	15		MARTIN of Alameda.			SMITH of San Francisco.	54	
BARTON	5		GARVEY	16		MARTIN of Santa Cruz.			SOULE		37
BEERSTECHER			GLASSCOCK	17		McCALLUM	24		STEDMAN		38
BELCHER	6		GORMAN		16	McCOMAS		28	STEELE		39
BELL			GRACE			McCONNELL		29	STEVENSON		40
BERRY			GRAVES			McCOY	35		~~STRONG~~		
BIGGS			GREGG			McFARLAND	36		STUART		
BLACKMER		2	HAGER	18		McNUTT			SWEASEY	55	
BOGGS			HALE	19		MILLER	37		SWENSON		
BOUCHER	7		HALL	20		MILLS	38		SWING		41
BROWN	8		HARRISON		17	MOFFAT	39		TERRY		
BURT		3	HARVEY	21		MORELAND	40		THOMPSON		
CAMPBELL	9		HEISKELL	22		MORSE	41		TINNIN		42
CAPLES		4	HEROLD	23		MURPHY	42		TOWNSEND	56	
CASSERLY	10		HERRINGTON	24		NASON	43		TULLY		
CHAPMAN	11		HILBORN		18	NELSON	44		TURNER	57	
CHARLES			HITCHCOCK			NEUNABER		30	TUTTLE		43
CONDON		5	HOLMES	25		NOEL	45		VACQUEREL		44
COWDEN			HOWARD	26		O'DONNELL			VAN DYKE		
CROSS			HUESTIS	27		OHLEYER		31	VAN VOORHIES	58	
CROUCH		6	HUGHEY	28		O'SULLIVAN	46		WALKER of Marin.		
DAVIS		7	HUNTER		19	OVERTON			WALKER of Tuolumne.	59	
DEAN		8	INMAN		20	PORTER	47		WATERS		45
DOWLING			JOHNSON	29		PROUTY		32	WEBSTER		46
DOYLE		9	JONES	30		PULLIAM			WELLER	60	
DUDLEY of San Joaquin and Amador.			JOYCE		21	REDDY	48		WELLIN		
DUDLEY of Solano.		10	KELLY		22	REED	49		WEST	61	
DUNLAP	12		~~KENNY~~			REYNOLDS	50		WICKES		47
EAGON			KEYS	31		RHODES		33	WHITE		48
EDGERTON	13		KLEINE		23	RINGGOLD			WILSON of Tehama.		49
ESTEY of Contra Costa and Marin.		11	LAINE	~~32~~		ROLFE	51		WILSON of First District.		
ESTEE of First District.	14		LAMPSON	32		SCHELL	52		WINANS		
EVEY		12	LARKIN		24	SCHOMP		34	WYATT	62	
FARRELL		13	LARUE	33		SHAFTER	5		MR. PRESIDENT	63	

Ayes 63

Noes 49

29

and the President declared the convention adjourned till Monday Dec. 9th 1878 at nine o'clock and thirty minutes a.m.

G. E. M. Stay
Farmer Clerk

12/7/78