1)

In Convention

Assembly Chambers. State Capitol

Sacramento

Saturday, Dec. 21st 1878

Convention met pursuant to adjournment

President Fox in the Chair

Roll called and the following members were absent —

2)

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

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

Ayes _____

Noes _____

3) Kim

Leave of absence.

Leave of absence was granted to Mr. Kelley for two days, to Messrs Townsend and Waters for one week, and indefinite leave to Mr. Graves on account of sickness.

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

Reports.

Mr. Hilborn from the committee on Mileage and Contingent expenses verbally reported the

4)

following resolution, and recommending its adoption

~~Thereof~~ Resolved: That the sum of thirteen dollars and seventy five cents be and the same is hereby allowed to pay the bill of Pacific Ice Company for Ice from Dec. 2d to Dec. 13th 1878 the same to be paid out of the funds appropriated for expenses of the convention, the Controller to draw his warrant in favor of the Sergeant-at-arms for the amount.

The resolution was adopted

5)

Mr. Hilborn from said Committee reported the following bill without recommendation

Sacramento Dec. 13th 1878

Constitutional Convention of Cal.
in account with Mrs. Margaret Galt Dr.

To washing towels 12 weeks $7.00

On motion of Mr. Tully the bill was ordered paid.

By Mr. Blackmer.

6)

Sacramento, Cal. Dec. 21st 1878.

Mr. President.

Your Committee on Future Amendments to whom were referred ~~amend=ments~~ propositions Nos. 107. 212. 323. 369. and 408. beg leave to report, that they have had the same under consideration, and herewith report the same back, and recommend that no further action be taken thereon.

So much of such propositions as your Committee deem it expedient to adopt, have been incorporated in the article herewith submitted, which your Committee recommend for adoption by the Convention, as Article X. of the new Constitution.

E. T. Blackmer.

J. R. Weller | J. A. Gorman
J. M. Charles | Conrad Hervey
J. V. Webster | David Lewis
P. T. Dowling

Report of Committee on Future Amendments.

Blackmer,
Chairman.

Report received, and the proposed article read, on motion of Mr Blackmer, ordered printed and referred to the Committee of the Whole.

By Mrs. Van Dyke

4)

Mr President

The Committee on the Preamble and Bill of Rights to whom were referred the following propositions to wit: No 377 introduced by Mr Edgerton
" 481 " " Mr Mills
" 491 " " Mr Ringgold,
and one Memorial, beg leave to report that the same relate to matters on which the Committee had already acted and reported their action to the Convention, and therefore return the propositions and Memorial and recommend that no further action be taken thereon.

Respectfully submitted

Walter Van Dyke
Chairman

Report of
Committee on
Preamble Bill of Rights

4

Van Dyke

Report received and ordered to lay on the table.

Proposed Amendment Relative to Legislative Representation.

Referred to the Committee on Apportionment and Representation.

On motion of Mr. Smeach the following resolution was taken from the table and adopted

10)

Resolved: That Patrick Levey be allowed thirty eight dollars out of the appropriation for the expenses of this Convention, for nineteen days services as Sergeant, viz. from September 28th to October 17th 1878. prior to his regular appointment by this Convention, which nineteen days services were not included in the pay-roll heretofore certified to.

11)

Mr. Vaqquerelle your
the following notice.

12)

Mr. President

I wish to give notice to this convention that on monday December 23d I will rise to a question of privilege in regard to Section five and Section six of An act to provide for a convention to frame a new constitution for the state of California

Assembly chamber Dec. 21/48

A. P. Vacquerel

(13) Revenue

Mr. Bigby moved that the article on Revenue and Taxation be made the special order for Monday Dec. 30th 1878.

Lost.

Mr. McFarland gave the following notice to amend Rules

I hereby give notice that I will move to amend Standing Rule No 55 so that it shall read as follows:

"55

"Committee of the Whole.

"In forming a Committee of the Whole Convention the President may preside, or appoint a member to preside. When propositions or resolutions relating to the Constitution shall be committed to a Committee of the Whole Convention they shall be read in Committee of the Whole by sections. All amendments shall be noted and reported to the Convention by the Chairman. After report the proposition or resolution shall again be subject to amendment before the final question is taken; but any report, proposition or resolution may be considered in Convention without having been committed or referred, to the Committee of the Whole."

I will also move to repeal Standing Rule No 58

McFarland

15)

Resume

Laid over one day under the rules.

Leave of absence

On motion of Mr Barton the Secretary was granted leave of absence on Monday next.

Committee of the Whole.

On motion of Mr Terry the Convention resolved itself into committee of the whole - President Hoge in the chair - to further consider the article on Legislative Department

16)

At twelve o'clock and twenty ~~three~~ minutes P.M. the committee arose, reported progress and asked leave to sit again.

In Convention.

Mr. Reddy offered the following resolution

~~Resolved~~ Whereas. - The balance of money appropriated for this convention amounts to about $3900 = which is about two days pay for the members. Therefore be it,

Resolved:

That the members receive

for those two days certificates and that the money above referred to be set aside for the expenses of this Convention.

Mr. Walker moved to insert the word "Incidental" before "expenses"

Mr. Dudley of San Joaquin moved to lay the resolution on the table.

~~Carried~~ The motion prevailed

at twelve o'clock and thirty ~~two~~ minutes P.M. Mr. Walker of Tuolumne moved to adjourn.

The ayes and noes were demanded by messrs

18)

Larkin, White, Howard, Dean and McCallum

The roll was called ~~by the~~ ~~following~~ with the following result.

and the convention refused to adjourn by the following vote.

19

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

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

Ayes 22

Noes 76

2 76

Recess.

The hour ~~of recess~~ having arrived the convention took a recess till two o'Clock, P. M.

Afternoon Session.

The Convention re-assembled at two o'Clock P. M.

President Hogg in the chair.

Quorum present.

Resolutions

By Mrs. Rolf.

Whereas, the balance of appropriation for this convention amounts to about $3900. ~~[illegible]~~ ~~Therefore be it~~ resolved that hereafter the members officers and attaches of this convention receive certificates of service and that the money aforesaid be set aside for the incidental expenses other than pay of members and attaches. ~~for printing or Gaslight~~

Mr. Ayers moved to amend by adding "or for printing or Gaslight"

amendment accepted.

Mr. White moved to lay the resolution on the table.

Carried

22)

By Mr. Dowling.

Resolved: That the Controller be ordered to issue warrants for the mileage of the newly elected members, representing the districts of Moorpark and Merced - and San Francisco.

Referred to the Committee on Mileage and Contingent expenses

Committee of the Whole.

On motion of Mr Berry

23)

The convention resolved itself into Committee of the Whole President Hoge in the Chair - to further consider the article on Legislative Department.

At three o'Clock and fifty five minutes P. M. the Committee arose, reported,

In Convention

Resolution

By Mr. Darling

24

Resolved, That the State Controller be and is hereby ordered to issue warrants to the amount of five dollars in favor of the Secretary for purchasing postage stamps, to be used in transmitting memorials relative to Chinese to the President of the United States, Senate, and House of Representatives, Governors of the Pacific States and Territories, and to all the Governors of the several States of the United States, and for other correspondence of the Convention.

25)

Referred to the Committee on Mileage and Contingent Expenses.

Mr. Dowling gave the following notice:

Mr. President and Gentlemen of the Convention,

I give notice that I intend to rise to a question of privilege on Monday the 23rd day of December at 2 O'clock P.M. in regard to certain Criticisms on my Conduct in Connection with Articles 5 and 6 relative to Calling a Constitutional Convention for the State of California. For the free exercise of my own judgment and having a desire to represent my Constituency with extreme fidelity, I was cited to appear before a private Caucas to answer and was ignominiously expelled.

Herewith is appended a Correct copy of such Citation —

Senate Chamber
Dec. 21st 1878

P. T. Dowling Esq

Dear Sir. In accordance with resolution passed at meeting of the Constitutional club held Thursday Evening Dec. 20th 1878 You are requested to attend the meeting of said Club to be held this evening in room 59 State Capitol and show Cause if any why you acted Contrary to the wishes of said Club in relation to the election of representative to fill vacancy occasioned by death of B. F. Kenny

Yours Respectfully
James N Barton
Pres.

J. Flynn
Secy —

28)

at four o'Clock P.M.
on motion of Mrs. Terry
the Convention
adjourned

12/21/78