19

The Convention

Assembly Chambers, State Capitol

Sacramento

Monday Dec. 23 1878

Convention pursuant to adjournment

President Hoge 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	85		FAWCETT			LARUE	87		SHAFTER		
AYERS	84		FILCHER			LAVIGNE			SHOEMAKER	99	
BARBOUR	1		FINNEY	7		LEWIS	8		SHURTLEFF	1	
BARNES			FREEMAN	98		LINDOW	9		SMITH of Santa Clara.		
BARRY	91		FREUD	8		MANSFIELD	40		SMITH of Fourth District.	2	
BARTON	90		GARVEY	9		MARTIN of Alameda.			SMITH of San Francisco.	3	
BEERSTECHER	95		GLASSCOCK			MARTIN of Santa Cruz.			SOULE	4	
BELCHER	1		GORMAN	20		McCALLUM	1		STEDMAN	5	
BELL	2		GRACE	100		McCOMAS			STEELE	6	
BERRY			GRAVES			McCONNELL	2		STEVENSON	7	
BIGGS			GREGG	96		McCOY	3		STUART		
BLACKMER	3		HAGER	88		McFARLAND	4		SWEASEY	8	
BOGGS			HALE	104		McNUTT	5		SWENSON		
BOUCHER			HALL			MILLER	1		SWING		
BROWN	4		HARRISON	1		MILLS			TERRY	9	
BURT	5		HARVEY	2		MOFFAT	6		THOMPSON	10	
CAMPBELL	4		HEISKELL	3		MORELAND	7		TINNIN	1	
CAPLES	6		HEROLD	4		MORSE	8		TOWNSEND		
CASSERLY	1		HERRINGTON	5		MURPHY			TULLY		
CHAPMAN			HILBORN	6		NASON	86		TURNER	2	
CHARLES	7		HITCHCOCK	7		NELSON	9		TUTTLE	3	
CONDON	8		HOLMES	8		NEUNABER	50		VACQUEREL	4	
COWDEN			HOWARD of Los Angeles.	9		NOEL			VAN DYKE		
CROSS	9		HOWARD of Mariposa and Merced.	30		O'DONNELL			VAN VOORHIES	5	
CROUCH	10		HUESTIS	94		OHLEYER	1		WALKER of Marin.		
DAVIS	1		HUGHEY	1		O'SULLIVAN			WALKER of Tuolumne.	6	
DEAN	2		HUNTER	2		OVERTON	2		WATERS		
DOWLING	92		INMAN			PORTER	3		WEBSTER	7	
DOYLE	3		JOHNSON	3		PROUTY	4		WELLER	8	
DUDLEY of San Joaquin and Amador.			JONES	4		PULLIAM			WELLIN		
DUDLEY of Solano.	103		JOYCE			REDDY	5		WEST	9	
DUNLAP	1		KELLY			REED	89		WICKES		
EAGON	97		KENNY	5		REYNOLDS	6		WHITE	80	
EDGERTON	4		KEYS	1		RHODES	7		WILSON of Tehama.	1	
ESTEY of Contra Costa and Marin.			KLEINE	93		RINGGOLD	8		WILSON of First District.	101	
ESTEE of First District.	102		LAINE			ROLFE	9		WINANS		
EVEY	5		LAMPSON	6		SCHELL	60		WYATT	2	
FARRELL	6		LARKIN	7		SCHOMP	1		MR. PRESIDENT	53	

AYES _____

NOES _____

3)

Leave of absence.

Leave of absence was granted to Messrs. Chapman, Biggs, Wicks, and Walkes of Marin, for two days, to Mrs. Boggs for three days, to Ms. Swenson for four days, to Ms. Sewing for one week, and indefinite leave to Messrs. Laine Tulley, and Fitcher. ~~and to Messrs. Keys and Joyce for the two o'clock P.M. this day.~~

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

4)

Mr. Ayers moved that the amendment proposed by him on Saturday and referred to the Committee on Apportionment and Representation, be referred to the Committee on Legislative Department.

So ordered.

Committee of the Whole.

On Motion of Mr. Terry the Convention resolved itself into Committee of the Whole — President Hoge in the Chair to

7) further consider the article on Legislative Department.

at 12 o'Clock and thirty minutes M. the Committee arose. reported, reported progress and asked leave to sit again

In Convention.

Notice by Mr Shoemaker

I hereby give notice that I will move to amend Standing Rule no. 53 by striking therefrom the words following, to wit: "Two hundred and forty copies of the file for each day shall be printed"

R. Shoemaker

7)

Laid over for one day.

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 Hoge in the Chair.

Quorum present.

(~~Mr. Terry moved that~~)

8)

~~The Convention resolved itself into committee of the whole to further consider the action on Legislative department.~~

Questions of privilege

Mr. Vagneral in accordance with previous notice, rose to a question of privilege.

Mr. Howard raised a point of order that the matter was not a question of privilege.

The Chair overruled the point of order.

PROPERTY OF

Mr. Reynolds rose to a point of order that the notice read, was in reference to a vote which ~~[illegible]~~ had already passed. therefore it could not have influenced said vote.

The Chair overruled the point of order.

Mr. Dowling rose to a question of privilege in accordance with previous notice.

and presented the following resolutions

TORONTO

10

Whereas on the 20th day of Dec, 1878, the following named persons were nominated for election to fill the vacancy in this Convention caused by the death of Honorable Bernard F. Kenny of San Francisco namely, John R Sharpstein, John J. Kenny ~~and~~ one Lloyd and Leonard W. And Whereas The ~~undersigned~~ I cast my vote for the said John J Kenny.

And Whereas on the 20th day of Dec 1878. I was cited to appear before the Workingmens Constitutional Club, assembled in room 59 State Capitol, Sacramento, to show cause why I should not be expelled from Membership in said Club for having cast my vote as above stated

And Whereas, at the time aforesaid I was a member of said Club in good standing

And Whereas, I refused to appear before said Club for the purpose of being questioned or punished for having cast my vote as above stated the said Club proceeded to expell me, and did expell me on said day from said Club and cause my name to be stricken from the roll of said Club as a punishment for having voted in this Convention for the said John J Kenny and for the purpose of disgracing and degrading me in the Eyes of the People of this State and for the purpose of menacing

and influencing me, and compelling me in the future to cast my vote according to the wishes of the other members of said Club, and in utter disregard of my privileges as a delegate in the Constitutional Convention of the State of California and in contempt of the law and the dignity of this Convention,

And Whereas, the said club is composed of the following named persons who were present and who voted for my expulsion from said Club and who authorized the above Citation to be served on me, namely

James N Barton President of said Club
J Flynn Secty —

Clitus Barbour	Morse
C. J Beerstecher	Nelson
Barry	Reynolds
Bell	Smith
Condon	Steadman
Cross	Swenson
Davis	Wellin
Dean	West
Farrell	~~Wist~~
Gorman	White
Grace	Wyatt
Harrison	
Herrington	
Joyce	

Be it therefore resolved that the above named persons and each and every one of them are guilty of ~~Contempt~~ a breach of my privilege as a member of this Convention and of Contempt of this Honorable body.

And be it further Resolved that they be cited to appear before this Convention to answer therefor.

And be it further ~~resolved~~

Resolved that a Committee be appointed by the President to investigate the charges above fully set forth and report ~~thereon~~ thereon,

P. T. Dowling

Dec 21 1878

13)

Mr Hitchcock moved to indefinitely postpone the resolutions upon which motion the ayes and noes were demanded by Messrs. Ayers, Freud, Howard of Los Angeles, Keys and West.

Mr. Reddy made a point of order that those named in the resolutions were not entitled to vote being interested parties. The President sustained

the ~~vote~~ point of order.

The roll was called and the motion to indefinite postpone prevailed by the following vote.

15

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

Ayes 53

Noes 21

16)

Committee of the Whole

On motion of Mr Terry the Convention resolved itself into committee of the whole ~~H~~ President Hoge in the chair — to further consider the article on Legislative department.

at o'Clock and minutes P.M. the Committee arose, reported the article back with amendments, and recommended that the same be printed.

(7)

~~Same be printed with recommendation~~
~~the amendments.~~

In Convention.

On motion of Mr Terry the ~~amendment~~ article on Legislative department with the amendments was ordered printed and placed on file.

Report.

By Mr Hilborn.

1718

Mr President,

Your Committee on Mileage and Contingent expenses have had under consideration Resolution No 100 relative to the Mileage of the Newly elected Members and find that W. J. Howard is entitled to Mileage for three hundred and twelve miles and J. J. Kenny for one hundred and eighty six miles;

We therefore recommend the adoption of the following resolution:

"Resolved that the Controller be directed to draw his warrants payable out of the ~~fund~~ appropriation for the expenses of this Convention in favor of W. J. Howard for the sum of $46.80 and in favor of J. J. Kenny for the sum of $25.20 the same being the amounts to which they are respectively entitled for mileage as members of this Convention."

Your Committee have also had under consideration Resolution No. 101 relative to Postage Stamps for the Secretary and herewith report the same back without recommendation

Hilborn Chairman,

The Report was received and the resolution in regard to mileage adopted.

The following resolution reported by the Committee was adopted:

Resolved That the State Controller be and is hereby ordered to issue warrants to the amount of five dollars in favor of the Secty. 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

20)

at five o'Clock P. M.
Mr Belcher moved
~~that the convention~~ to adjourn
~~adjourn to~~ until Thursday
Dec. 26th 1878 at two
o'Clock P. M.
Mr Howard of Los Angeles
moved to adjourn
which motion prevailed
and at five o'Clock
and five minutes P. M.
the convention ad-
journed

Dec 22

12/23/78

Dec. 23