1

In Convention
Assembly Chamber
State Capitol.

Sacramento
Friday Dec. 28th 1878

Convention met 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	1		FAWCETT			LARUE	43		SHAFTER	61	
AYERS	2		FILCHER	23		LAVIGNE	44		SHOEMAKER	1	
BARBOUR	3		FINNEY	24		LEWIS			SHURTLEFF	62	
BARNES			FREEMAN	25		LINDOW			SMITH of Santa Clara.	63	
BARRY	81		FREUD			MANSFIELD	45		SMITH of Fourth District.	64	
BARTON	4		GARVEY			MARTIN of Alameda.			SMITH of San Francisco.	65	
BEERSTECHER			GLASSCOCK	1		MARTIN of Santa Cruz.			SOULE	66	
BELCHER			GORMAN	26		McCALLUM			STEDMAN		
BELL	5		GRACE	27		McCOMAS	46		STEELE	67	
BERRY			GRAVES	1		McCONNELL	47		STEVENSON	68	
BIGGS	6		GREGG	28		McCOY	48		STUART		
BLACKMER	7		HAGER			McFARLAND			SWEASEY	69	
BOGGS			HALE	1		McNUTT			SWENSON		
BOUCHER	8		HALL			MILLER			SWING	70	
BROWN	9		HARRISON			MILLS	49		TERRY	71	
BURT	10		HARVEY			MOFFAT	50		THOMPSON	72	
CAMPBELL	11		HEISKELL	29		MORELAND	51		TINNIN		
CAPLES			HEROLD			MORSE			TOWNSEND		
CASSERLY			HERRINGTON			MURPHY			TULLY		
CHAPMAN			HILBORN	30		NASON			TURNER	73	
CHARLES	12		HITCHCOCK	31		NELSON			TUTTLE	74	
CONDON	13		HOLMES	32		NEUNABER			VACQUEREL		
COWDEN	14		HOWARD of Los Angeles.	84		NOEL			VAN DYKE	75	
CROSS			HOWARD of Mariposa and Merced.	33		O'DONNELL			VAN VOORHIES	76	
CROUCH	15		HUESTIS	34		OHLEYER	52		WALKER of Marin.		
DAVIS	16		HUGHEY	35		O'SULLIVAN			WALKER of Tuolumne.		
DEAN	17		HUNTER	36		OVERTON			WATERS		
DOWLING			INMAN			PORTER	53		WEBSTER		
DOYLE	18		JOHNSON			PROUTY			WELLER		
DUDLEY of San Joaquin and Amador.			JONES	1		PULLIAM	54		WELLIN	77	
DUDLEY of Solano.	19		JOYCE	37		REDDY			WEST	1	
DUNLAP	82		KELLY	38		REED	55		WICKES		
EAGON			KENNY			REYNOLDS	83		WHITE		
EDGERTON	20		KEYS	39		RHODES	56		WILSON of Tehama.	78	
ESTEY of Contra Costa and Marin.			KLEINE	40		RINGGOLD	57		WILSON of First District.		
ESTEE of First District.			LAINE			ROLFE	58		WINANS	79	
EVEY	21		LAMPSON	41		SCHELL	59		WYATT		
FARRELL	22		LARKIN	42		SCHOMP	60		MR. PRESIDENT	80	

Ayes _____

Noes _____

3)

Leave of absence

Leave of absence was granted for ~~two~~ days to Messrs. Johnson ~~Prouty~~ Hall, Dowling, Kenny Harrison and Nelson for one day to ~~Mr.~~ Messrs Garvey, Nason & McCullum for three days to Messrs Prouty and Estee, and indefinite leave to Messrs Zinnin ~~and~~ McNutt and Swenson on motion of Mr Brown the reading of the journal of the 24th and 26th was dispensed with and the same approved.

Resolution

By Mr Barbour

4)

Whereas:— Chas. C. O'Donnell, a member of this Convention, has recently been publicly charged with the commission of infamous crimes which unfit him to sit as a member of this Convention, which charges purport to be based upon sworn testimony taken in a court of justice in the regular course of judicial proceedings; therefore

Resolved:— That a committee of three be appointed by the President whose duty shall be to examine such charges and the proof in support thereof and report the facts to this Convention as soon as practicable; and such committee shall have power to send for persons and papers.

By Barbour

Mr. Gregg proved to lay the resolutions on the table upon which the ayes and noes were demanded by Messrs Larkin, Barbour, Lampson Joyce and Barton.

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

Ayes 24

Noes 63

7) The resolutions of Mr. Barbour was then adopted. The President appointed under the foregoing resolution Mr. Barbour of San Francisco. Shurtleff of Napa. Fischer of Placer.

Committee of the whole.

On motion of Mr. Edgerton the convention resolved itself into committee of the whole - President Hoge in the Chair - to consider the article on Revenue and Taxation.

At 12 O'Clock and 30 minutes P.M. the Committee arose, reported progress and asked leave to sit again

8)

Recess

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

Afternoon Session

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

President Hoge in the chair.

Leave of Absence

Mr. Miller was granted indefinite leave of absence.

Mr. Edgerton moved that the convention resolved itself into committee of the whole to consider the article on Suffrage. Lost

~~Mr. Fletcher~~ m

Committee of the whole.

9/

On motion of Mr. Edgerton the Convention resolved itself into Committee of the whole — President Hoyt in the chair — & further considered the article on Revenue and taxation

at five o'Clock ~~and~~ ~~minutes~~ P. M. the Committee arose, reported progress, and asked leave to sit again.

In Convention

Mr. Edgerton offered the following resolution which was adopted

(10)

Resolved that the Secretary of this Convention be and he is hereby instructed to have the amendments offd by the Member from Placer Judge Hall, and the Member from Humboldt Mr Heuertis, to Section 2 of the report of the Committee on Reason & Taxation, printed in the Journal and placed on the desks of Members tomorrow morning

Amendment of Mr. Hall.

11)

Strike out section 2 and insert

Section 2. All property within this State, including franchises and the capital stock of corporations, shall be taxed in proportion to its value; provided always that no tax shall be imposed on growing crops, debts, evidences of debt, private property exempt from taxation by the laws of the United States, property belonging to the United States, or to this State or any Municipality thereof. No deduction shall be made from the assessed value of property on account of any debt or debts owing by the owner or owners of such property, but such debtor or debtors shall, upon payment of such indebtedness, be entitled to retain therefrom a sum with interest thereon at the same rate borne by such indebtedness, to be computed from the time or times of the tax payments which shall equal the amount of taxes, which may have been paid by such debtor or debtors, during the existence of said indebtedness, upon ~~the~~ property of like amount in value of said indebtedness; provided further, that if any such indebtedness shall be paid by any such debtor or debtors after assessment and before the tax levy, the amount of such levy for that year, may likewise be retained by such debtor or debtors, and shall be computed according to the tax levy for the preceding year.

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12)

Amendment of
Mrs Huestiss.

By Huestis,

13

— Substitute for Section 2. —

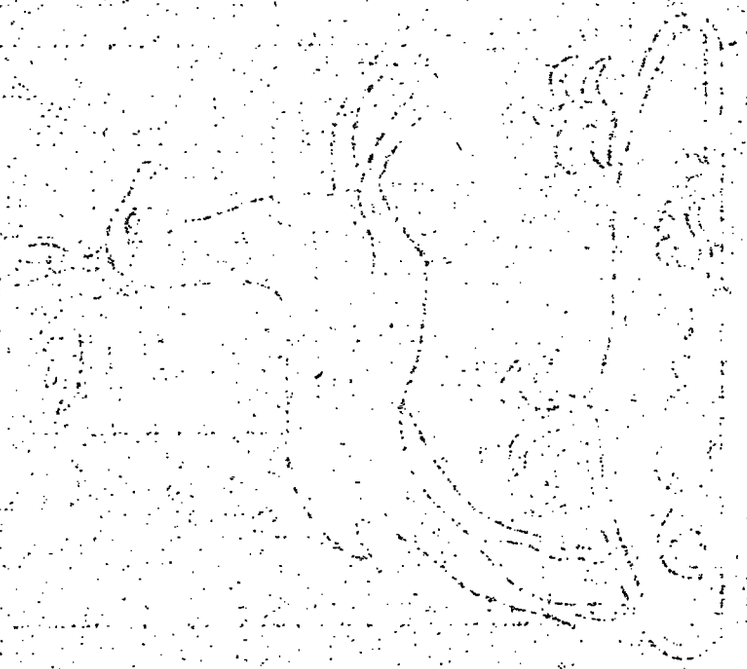
All property in this State, including franchises, capital stock of Corporations or joint stock associations and solvent debts, excepting growing crops, private property exempt from taxation under the Laws of the United States, public property belonging to the United States or to this State, or any County, City and County, City, or Municipality thereof, and including all property real and personal belonging to and devoted to public use in all public School Districts and departments in this State, shall be taxed in proportion to its cash value, to be ascertained as directed by law.

A mortgage, Deed of trust, contract or other obligation by which a debt is secured, shall, for the purposes of assessment and taxation, be deemed and treated as an interest in the property affected thereby, Except as to railroads and other quasi public Corporations, in case of debts so secured, the value of the property affected by such mortgage, deed of trust, Contract, or obligation, less the value of such security shall be assessed and taxed to the owner of the property, and the value of such security shall be assessed and taxed to the owner thereof in the County or City and County in which the property affected thereby is situate. The taxes so levied shall be a lien upon the property and security respectively, and may be paid by either party, or his successor, to such security; if paid by the owner of the security or his successor, the tax so levied upon the property affected thereby shall become a part of the debt so secured; if the owner of the property or his successor, ~~shall~~

shall pay the tax so levied on such security, it shall constitute a payment thereon, and to the extent of such payment, a full discharge thereof. (And in respect to all other solvent debts, there shall be no reduction made, as herein provided, from the full cash value of all property of the debtor or debtors owing the same, on account of such debt or debts; but he or they shall, on payment thereof, be entitled to retain therefrom a sum, with interest thereon at the same rate borne by said indebtedness, to be computed from the time or times of the tax payments, which shall equal the amount of taxes which may have been paid by such debtor or debtors during the existence of such indebtedness upon property of like amount in value, of said indebtedness. Provided, if any indebtedness shall be paid by any such debtor or debtors after assessment and before the tax levy, the amount of such levy, for that year, may likewise be retained by him, or them, and shall be computed according to the tax levy for the preceding year.

Adjournment

at five o'clock
and four minutes
P.M. on motion
of Mrs. Neikell
the convention
adjourned

12/27/78

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