ARTICLE XII

CORPORATIONS OTHER THAN MUNICIPAL

The desire of the Convention, and of the people, to control and regulate corporations is apparent in the making of this article. Protections were set up against watered stock, trusts and monopolies, legislative extension of existing franchises, and the enacting of special privilege laws by the Legislature. However, fears were expressed from many quarters that too severe restrictions would drive capital out of the state and discourage new capital investments. This faction was powerful enough to eliminate from the reported corporation article its more harsh provisions.

The choice of Kinnear as chairman of this committee was criticized by the Tacoma Morning Globe, since it was well known that he favored strong restrictions on corporations, but the Seattle Times early expressed a sense of security that the chairmanship was in such capable hands.

Two prominent Seattle businessmen were influential in stirring up opposition to the more restrictive sections which appeared in the committee report. They were successful in getting Section 11 changed, and in helping to defeat the constitutional enactment of a railroad commission.

The section of the committee report setting up a powerful railroad and transportation commission caused the most controversy. It was opposed on the grounds that it was legislative in content and would drive foreign capital from the state. Those favoring it pointed to the slowness of legislatures in making regulatory laws, and to the need for a central body to settle disputes involving railroads. Many telegrams were received objecting to such a commission.

The section authorizing a commission was accepted by the committee of the whole on August 4, but rejected at the next meeting, August 6. It is certain that the activities of a strong rail-

2. Tacoma Morning Globe, August 3; Seattle Times, July 10, 1889.
road lobby were effective in securing this changed vote. Territorial newspapers reported that certain delegates admitted changing their votes when informed that support of a railroad commission would result in the halting of railroad construction needed in their counties. This lobby approached George Turner, the most active and influential advocate of the section and a known aspirant for a senatorial seat from the new state, with promises of a large contribution to his senatorial campaign if he would leave the Convention during the debates on the section. Turner’s reply was not recorded, but it is probable that he rejected this proposal in no uncertain terms, and he remained the Convention’s most formidable opponent of the lobby’s interests.

The railroad commission was lost to these strong interests, but a compromise of sorts was effected by placing a clause in Section 18 that “a railroad and transportation commission may be established.” The Post-Intelligencer and the Vancouver Independent later noted this failure to set up a commission as one of the major shortcomings of the Constitution.

The Committee for Corporations other than Municipal was appointed July 9. (p. 20)

Members: Kinnear, chairman; Weisenburger, McCroskey, P. C. Sullivan, Neace, Sharpstein, Shoudy, Henry and Coey.

Section 1

Present Language of the Constitution:

CORPORATIONS, HOW FORMED. Corporations may be formed under general laws, but shall not be created by special acts. All laws relating to corporations may be altered, amended or repealed by the legislature at any time, and all corporations doing business in this state may, as to such business, be regulated, limited or restrained by law.

Original language same as present.

4. Seattle Post Intelligencer, Ledger, August 7; Walla Walla Weekly Statesman, August 8, 1889.
6. Post-Intelligencer, August 26; Vancouver Independent, Wash., August 28, 1889.
7. Not Created by Special Laws: Cal., Const. (1879), Art. 12, sec. 1; Wash., Const. (1878), Art. 16, sec. 1. [Similar.]
Proposition submitted to Convention by Sharpstein, July 10:

That general, not special, laws be used to regulate corporations. That corporations may be restricted, limited, or restrained by law. (p. 43)

Proposition submitted to Convention by Godman, July 10:

That special laws shall not allow charters, extend or alter them or their rights or powers. (p. 46)

Text as given in report of committee, July 26:

Same as final. (p. 166)

Section 2

Present Language of the Constitution:

EXISTING CHARTERS. All existing charters, franchises, special or exclusive privileges, under which an actual and bona fide organization shall not have taken place, and business been commenced in good faith, at the time of the adoption of this Constitution shall thereafter have no validity.

Original language same as present.

Text as given in report of committee, July 26:

Same as final. (p. 166)

Consideration by committee of the whole, August 1:

Motion: Stiles moved to strike the section.

Action: Motion lost 24 to 21.

Discussion as follows:

For: Stiles saw no necessity for the section or why corporations in process with stock partially subscribed, but not quite able to proceed, should stop and lose their expenses and have to begin all over again. Cosgrove thought the section was unfair.

8. Corporation Must Have Bona Fide Organization: Cal., Const. (1879), Art. 12, sec. 6. [Identical.] Penn., Const. (1873), Art. 16, sec. 1. [Identical except for slight word change.] Wash., Const. (1878), Art. 13, sec. 1. [Similar.]

9. Spokane Falls Review, August 2; Standard, August 9, 1889.
Against: Kinnear informed the delegates that this clause appeared in a number of recent state constitutions. It was to stop incorporators who had been granted charters by special acts of the territorial legislature but who had not yet started business. He said all corporations should come under the general law and not be able to exercise special privileges. Turner explained that this provision was to bring all corporations not actually doing business in under the general law.

Motion: Minor moved to strike the word “franchise” and substitute “grants.”

Action: Motion lost.

Section 3
Present Language of the Constitution:

EXISTING CHARTERS NOT TO BE EXTENDED NOR FORFEITURE REMITTED. The legislature shall not extend any franchise or charter, nor remit the forfeiture of any franchise or charter of any corporation now existing, or which shall hereafter exist under the laws of this state.

Original language same as present.10

Proposition submitted to Convention by Godman, July 10:

That the Legislature shall not remit the forfeiture of the charter or franchise of any corporation. (p. 47)

Text as given in report of committee, July 26:

Same as final. (p. 166)

Section 4
Present Language of the Constitution:

LIABILITY OF STOCKHOLDERS. Each stockholder in all incorporated companies, except corporations organized for banking or insurance purposes, shall be liable for the debts of the corporation to the amount of his unpaid stock and no more; and one or more stockholders may be joined as parties defendant in suits to recover upon this liability.

10. Legislature Shall Not Extend Franchise: Cal., Const. (1879), Art. 13, sec. 7. [Identical.] Penn., Const. (1873), Art. 16, sec. 2. [Similar.]
Original language same as present.\textsuperscript{11}

Text as given in report of committee, July 26:

All stockholders in all incorporated companies, except corporations organized for banking or insurance purposes, shall be liable for the debts of the corporation to the amount of their unpaid stock and no more. (p. 166)

Consideration by committee of the whole, August 1:\textsuperscript{12}

\textbf{Motion:} Griffitts moved to strike the section.

\textbf{Motion:} Sharpstein moved to strike “except corporations organized for banking or insurance purposes,” leaving all corporations to stand alike.

\textbf{Action:} Sharpstein’s motion lost and Griffitts’ was left pending when the committee rose to report progress. The discussion was continued on the following day and when put to a vote, the motion to strike was lost by a vote of 12 ayes and noes not counted.

\textbf{Discussion as follows:}

\textbf{For:} Griffitts favored striking since he believed the section was already law anyway and was legislative in character.

\textbf{Against:} Turner said banks and insurance companies ought to be under heavier liabilities than other corporations because they took the people’s money largely in excess of the amount of their capital stock. Hoyt agreed as to banking companies, but not as to insurance companies. Crowley believed in retaining the section; he thought stockholders in insurance companies should pay when the company dissolves and an insured against event occurs. Dyer agreed with Crowley because he thought this would prevent wildcat companies. Hoyt said a double or treble liability on insurance stockholders would result in having stock all in the hands of persons who could not respond and thus encourage instead of discourage wild-

\textsuperscript{11} Limiting of Stockholders: Ore., Const. (1857), Art. 11, sec. 3; Ohio, Const. (1851), Art. 13, sec. 3 (Ala., Const. (1876), Art. 1, sec. 8, identical with Ohio. [Similar.]

\textsuperscript{12} Review, August 2; Standard, August 9, 1889.

Further consideration by committee of the whole, August 2:

The vote was put on Griffitts' motion; it lost by a vote of 12 for and noes not counted. The section was then adopted.

Action by Convention, August 10:

Motion: P. C. Sullivan moved to add a clause limiting stockholders' liability.

Action: Motion carried. (p. 318)

Motion: Turner moved to amend by substituting a section providing for limitation of liability and joinder of defendants.

Action: Motion carried. (p. 318)

Section 5

Present Language of the Constitution:

TERM "CORPORATION," DEFINED—RIGHT TO SUE AND BE SUED. The term corporations, as used in this article, shall be construed to include all associations and joint stock companies having any powers or privileges of corporations not possessed by individuals or partnerships, and all corporations shall have the right to sue and shall be subject to be sued, in all courts, in like cases as natural persons.

Original language same as present.¹⁴

Text as given in report of committee, July 26:

Same as final. (p. 167)

Section 6

Present Language of the Constitution:

LIMITATIONS UPON ISSUANCE OF STOCK. Corporations shall not issue stock, except to bona fide subscribers therefor, or their assignees; nor shall any corporation issue

¹³ Times, August 2; Review, Globe, August 3; Standard, August 9, 1889.

¹⁴ Corporations Construed to Include What: Cal., Const. (1879), Art. 13, sec. 4; N. Y., Const. (1846), Art. 8, Sec. 3. [Identical.]
any bond, or other obligation, for the payment of money, except for money or property received or labor done. The stock of corporations shall not be increased, except in pursuance of a general law, nor shall any law authorize the increase of stock, without the consent of the person or persons holding the larger amount in value of the stock, nor without due notice of the proposed increase having been previously given in such manner as may be prescribed by law. All fictitious increase of stock or indebtedness shall be void.

Original language same as present.¹⁵

Text as given in report of committee, July 26:

Same as final. (p. 167)

Consideration by committee of the whole, August 2:¹⁶

Motion: Stiles moved to strike the section.

Action: Motion lost.

Discussion as follows:

For: Stiles said most of the provisions of this section were already well settled by law. He claimed that the first provision would only give corporations a chance to set up a defense against their own bond in the hands of innocent holders. Warner thought that the section would not prevent the watering of stocks and agreed with Stiles. Stiles closed by adding that this proposition would stop railroads from issuing bonds at anything less than one hundred cents on a dollar. He said that this was not good business and people who did purchase the bonds at par would be liable to a defense against the railroad company claiming the bonds were illegally issued by the company, and so voted.

Against: Browne said watered stock was one of the greatest evils of the day and thought the section would help stop that practice. Lillis thought corporations should have a real value to their stocks, dollar for dollar. Sharpstein said that companies wanted good interest on fictitious issues void: Cal., Const. (1879), Art. 13, sec. 11; Penn., Const. (1873), Art. 16, sec. 7. [Similar.]

¹⁵. Times, August 2; Review, Ledger, Globe, August 3; Standard, August 9, 1889.

16. Times, August 2; Review, Ledger, Globe, August 3; Standard, August 9, 1889.
tious stock and people had to pay on more than the amount invested in the railroads. E. H. Sullivan said the section was directed at fraud and should go in the Constitution. Buchanan said that he wanted the section because railroads based charges for services on the amount of stock, fictitious as well as actual. Kinnear defended the section by saying that experience had shown such a limitation to be necessary and that many petitions had asked for it. Power reported that the railroad men were saying that it would prevent placing the stock "where it would do the most good." Turner also spoke in favor of retaining the section.

**Motion:** Browne moved to strike the first sentence and insert in its place, "No corporation shall issue any stock or bonds except to bona fide purchasers thereof and except for money, labor, or property actually received and applied to the purposes for which the corporation was created."

**Action:** Motion lost.

**Discussion as follows:**

**Against:** Turner and P. C. Sullivan argued that this amendment went too far. They both thought that the committee had reported a sufficient section.

**Motion:** Browne moved to insert the word "stock" before "bond" in the sentence reading "nor shall any corporation issue any bond, or other obligation," etc.

**Action:** Motion lost.

**Discussion as follows:**

**For:** Browne contended that the amendment would absolutely prevent the issuance of watered stock. He said stock should show on its face how much of it has been paid up, or else be issued to stockholders as fast as it was paid for.

**Against:** Stiles opposed the amendment as being more vicious than the section. Crowley, Weisenburger, and Turner agreed that the amendment would have an evil effect as it would compel all companies to pay in full the amount of their capital stock. Dunbar and Gowey said
the amendment would cripple every struggling corporation in the state and prevent the formation of building and loan associations, title insurance companies, and home insurance companies.

Deleted Section

Text as given in report of committee, July 26:

“No corporation shall engage in any business other than that authorized in its charter, or the law under which it may have been or may hereafter be organized.” (Section 7, p. 167)

Consideration by committee of the whole, August 2:

Motion: Turner moved to strike the section.

Action: Motion carried.

Discussion as follows:

For: Turner thought the section was purely legislative and that the law now confined corporations to their charters. He further stressed that the section would give corporations a chance to avoid their obligations by pleading that they were outside their charters. Sturdevant also spoke in favor of striking. Stiles thought the section would help corporations to evade their obligations, so favored striking it, as did Godman, Jones, Crowley, and Dunbar.

Against: Buchanan favored the section because when corporations go out of their corporate business it requires litigation to collect money from them. E. H. Sullivan wanted the section to stand so that courts and the Legislature could not deal with the matter. Kinnear also favored it.

Action by Convention, August 6:

Decision by committee of the whole accepted. (p. 252)

Section 7

Present Language of the Constitution:

FOREIGN CORPORATIONS. No corporation organized outside the limits of this state shall be allowed to transact

17. Review, Ledger, Globe, August 3; Standard, August 9, 1889.
business within the state on more favorable conditions than are prescribed by law to similar corporations organized under the laws of this state.

Original language same as present.\textsuperscript{18}

Proposition submitted to Convention by Godman, July 10:

That all out-of-state corporations have the same business privileges as those organized in the state. (p.47)

Text as given in report of committee, July 26:

Same as final. (Section 8, p. 167)

Consideration by committee of the whole, August 2:\textsuperscript{19}

\textbf{Motion}: Dyer moved to provide that foreign corporations be compelled to keep one or more business offices and authorized agents within the state. Kinnear accepted the amendment on behalf of the committee.

\textbf{Action}: Motion lost 21 to 18.

Action by Convention, August 6:

\textbf{Motion}: Dyer moved to amend that no foreign corporation could do business unless it had a known place of business and an authorized agent in the state upon whom processes could be served.

\textbf{Action}: Motion lost 36 to 28. (p. 256)


**Deleted Section**

Proposition submitted to Convention by Godman, July 10:

That corporations must maintain offices in the state and the

\textsuperscript{18} All Corporations to be Treated Equally: Cal., Const. (1879), Art. 13, sec. 15. [Identical.] Hill, Prop, Wash. Const., Art. 10, sec. 6. [Similar.]

\textsuperscript{19} Review, Globe, August 3, 1889.
records must be open to inspection showing all stock ownership and transfers, liabilities, assets, and officers. (p. 47)

Text as given in report of committee, July 26:

“Every corporation other than religious, educational, or benevolent organized or doing business in this state shall have and maintain an office or place in this state for the transaction of its business, where transfers of stock shall be made, and in which shall be kept for inspection by every person having an interest therein, including creditors and legislative committees, books in which shall be recorded the amount of capital stock subscribed and by whom, the names of the owners of its stock and the amount owned by them respectively, the amount of stock paid in and by whom, the transfers of stock, the amount of its assets and liabilities, and the names and places of residence of its officers.” (Section 9, p. 167)

Consideration by committee of the whole, August 2. 20

Motion: T. M. Reed moved to strike the section.

Motion: Kinnear moved to amend so that the provision would apply only to domestic corporations by inserting the word “domestic” after the first “every”.

Motion: Kinnear added to this motion the striking out of the words “or doing business”.

Action: Both amendments lost by a vote of 18 ayes and noes not counted. The motion to strike then carried.

Discussion as follows:

For section as amended: Dyer and Buchanan favored the amendments. Warner hoped the amendments would prevail; he and E. H. Sullivan thought Section 8 could afterwards be amended to correspond.

Against section and for striking: Crowley, Turner, Sharpstein, Hoyt, and Weisenburger were against the section as being legislative. Griffitts read provisions of the Code of Washington (section 2436) on the subject and then objected to the section as legislative and unnecessary.

20. Review, Ledger, Globe, August 3; Standard, August 9, Argus, August 8, 1889.
Final action by Convention, August 6:
Decision of committee of the whole accepted. (p. 252)

Deleted Section

Text as given in report of committee, July 26:

"A corporation or association may be sued in the county where the contract is made or is to be performed, or where the obligation or liability arises, or the breach occurs, or in the county where the principal place of business of such corporation is situated, subject to the power of the court to change the place of trial as in other cases." (Section 10, p. 167)

Consideration by committee of the whole, August 2:

Motion: Crowley moved to strike the section.

Action: Motion carried.

Discussion as follows:

For: Stiles, Crowley, Turner and Dunbar spoke in favor of striking.

Against: Buchanan and Kinnear defended the section.

Final action by Convention, August 6:
Decision of committee of the whole accepted. (p. 252)

Section 8

Present Language of the Constitution:

ALIENATION OF FRANCHISE NOT TO RELEASE LIABILITIES. No corporation shall lease or alienate any franchise, so as to relieve the franchise, or property held thereunder, from the liabilities of the lessor, or grantor, lessee, or grantee, contracted or incurred in the operation, use, or enjoyment of such franchise or any of its privileges.

Original language same as present.

21. Review, Ledger, Globe, August 3; Standard, August 9, 1889.
22. Leasing or Alienation of Franchise: Cal., Const. (1879), Art. 13, sec. 10. [Identical except for the first few words.]
"The Legislature shall not pass any laws permitting the leasing or alienation of any franchise, so as to relieve the franchise or property held thereunder from the liabilities of the lessor or grantor, lessee, or grantee contracted or incurred in the operation, use or enjoyment of such franchise, or any of its privileges." (Section 11, p. 168)

Consideration by committee of the whole, August 2:

Motion: Turner moved to amend so that it would read "The Legislature shall pass laws prohibiting the leasing, etc." He said the leasing could be done without laws so this amendment was necessary.

Motion: Sharpstein moved to amend by striking out the clause under attack and inserting, "No corporation shall lease or alienate any franchise, etc."

Action: Turner accepted Sharpstein's amendment, and Sharpstein's motion carried and the amended motion was then adopted.

Discussion as follows:

For: Shoudy favored the amended motion since he did not see how the Legislature could be compelled to pass such laws. Sharpstein said the idea was to prevent corporations from escaping liability on the plea that their property was leased to someone else.

Motion: Stiles moved to strike out "lessee or grantee".

Action: Motion lost.

Discussion as follows:

For: Stiles understood that the object was "somehow to prevent something or other" between the Northern Pacific and the Oregon Railway and Navigation Company, and thought that all that was needed was to strike out the words he had indicated. Crowley said that in a case then in court the Oregon Railway and Navigation Company sought to escape paying damages on the plea that its property was not being operated by itself but by the Union Pacific.

Section 9

Present Language of the Constitution:

STATE NOT TO LOAN ITS CREDIT OR SUBSCRIBE FOR STOCK. The state shall not in any manner loan its credit, nor shall it subscribe to, or be interested in the stock of any company, association or corporation.

Original language same as present.24

Proposition submitted to Convention by Sharpstein, July 10:

That the credit of the state is not to be loaned or given to any corporation, company, association, or person. (p. 43)

Text as given in report of committee, July 26:

Same as final. (Section 12, p. 168)

Consideration by committee of the whole, August 2:25

Motion: T. M. Reed moved to strike the section.

Action: Motion lost.

Discussion as follows:

For: Reed said that this was already provided for in an earlier article. (see Article VIII, Section 5.)

Against: P. C. Sullivan said the prohibition regarding subscriptions to stock was not made anywhere else, and this was important. Dyer thought the revision committee could attend to this and his motion to adopt the section prevailed.

Section 10

Present Language of the Constitution:

EMINENT DOMAIN AFFECTING. The exercise of the right of eminent domain shall never be so abridged or construed as to prevent the legislature from taking the property and franchises of incorporated companies, and subjecting them to public use the same as the property of individuals.

24. State Shall Not Loan Credit: Cal., Const. (1879), Art. 13, sec. 13. [Identical.]
Original language same as present.\textsuperscript{26}

Proposition submitted to Convention by Godman, July 10:

That corporate property be subject to the right of eminent domain. (p. 47)

Text as given in report of committee, July 26:

Same as final. (Section 13, p. 168)

Consideration by committee of the whole, August 2:\textsuperscript{27}

\textbf{Query:} Comegys asked what the section meant.

\textbf{Answer:} Kinnear explained that the section allowed corporate property to be taken under the right of eminent domain the same as private property.

\textbf{Query:} Turner asked if the section would let railway companies take the roadbed of another company.

\textbf{Answer:} Kinnear answered in the affirmative but added that such a case would not be likely to arise.

\textbf{Query:} Moore asked if the public didn’t already have such a right.

\textbf{Answer:} Kinnear said no; that all authorities were clear that corporation franchises could not be taken unless by an express act of the Legislature.

\textbf{Query:} Dunbar asked if the Legislature could act without the section.

\textbf{Answer:} Kinnear agreed that it could do so, but added that the section declared a principle.

\textbf{Motion:} J. Z. Moore moved to strike the section.

\textbf{Action:} Motion carried.

\textbf{Discussion as follows:}

\textbf{For:} Moore said that the section would only be a bugbear

\textsuperscript{26} Eminent Domain, State May Exercise Right: Ark., Const. (1874), Art. 17, sec. 9. [Identical.] Penn., Const. (1873), Art. 16, sec. 3 (Cal., Const. (1879), Art. 13, sec. 8, identical with Penn.); Colo., Const. (1876), Art. 15, sec. 8; Mo., Const. (1875), Art. 12, sec. 4; Neb., Const. (1875), Art. 11, sec. 6; Ill., Const. (1870), Art. 11, sec. 14. [Identical except for slight word change.]

\textsuperscript{27} Review, Ledger, Globe, August 3; Standard, August 9, 1889.
which, held up before investors, would possibly prevent their investment in railroad building in the state. Turner thought the Legislature could provide for this. He feared that a claim might be made that one railroad was more important than another and so condemn the roadbed after it was completed and ready for use. Jones answered Kinnear's argument by stating that the territorial courts had held that a franchise was not a contract between the holder and the government and that non-use was not a forfeiture of a grant. Griffitts thought the section useless and pointed out that Section 8 of the Bill of Rights, which prohibited the granting of an irrevocable franchise, was a sufficient answer to Kinnear.

Against: Kinnear defended the section. He said that the authorities claimed that a franchise was in the nature of a contract and could not be taken away without a provision in the organic law. He added that the only authority of eminent domain the Legislature had was in the Bill of Rights, which did not authorize the taking away of a franchise, and that such a provision was also needed in the Constitution.

Final action by Convention, August 6:

Decision of committee of the whole to strike the section was lost 60 to 9. (p. 252)

Voting for: Blalock, Comegys, Sturdevant, Stiles, P. C. Sullivan, Turner, and Van Name: Absent and not voting: Allen, Browne, Dallam, Gowey, Hicks and Jeffs.

Section 11

Present Language of the Constitution:

STOCKHOLDER LIABILITY. No corporation, association, or individual shall issue or put in circulation as money anything but the lawful money of the United States. Each stockholder of any banking or insurance corporation or joint stock association shall be individually and personally liable equally and ratably, and not one for another, for all contracts, debts, and engagements of such corporation or association accruing while they remain such stockholders, to the extent
of the amount of their stock therein at the par value thereof, in addition to the amount invested in such shares.

The legislature may provide that stockholders of banking corporations organized under the laws of this state which shall provide and furnish, either through membership in the Federal Deposit Insurance Corporation, or through membership in any other instrumentality of the government of the United States, insurance or security for the payment of the debts and obligations of such banking corporation equivalent to that required by the laws of the United States to be furnished and provided by national banking associations, shall be relieved from liability for the debts and obligations of such banking corporation to the same extent that stockholders of national banking associations are relieved from liability for the debts and obligations of such national banking associations under the laws of the United States. [1939 p 1024, Senate Joint Resolution No. 8. Approved November, 1940.]

Original language:28

No corporation, association, or individual shall issue or put in circulation as money anything but the lawful money of the United States. Each stockholder of any banking or insurance corporation or joint stock association shall be individually and personally liable equally and ratably and not for another, for all contracts, debts and engagements of such corporation or association accruing while they remain such stockholders to the extent of the amount of their stock therein at the par value thereof, in addition to the amount invested in such shares.

Text as given in report of committee, July 26:

"The Legislature shall have no power to pass any act granting any charter for banking or insurance purposes, but corporations or associations may be formed for such purposes under general laws. No corporation, association or individual shall issue or put in circulation as money anything but the lawful money of the United States. Each stockholder of any such corporations or joint stock associations shall be individually and personally liable for such proportion of all its debts and

28. Corporations and Individuals Shall Not Issue Money: Cal., Const. (1879), Art. 11, secs. 3 and 5; Ia., Const. (1857), Art. 8, sec. 9 (Neb., Const. (1875), Art. 11, sec. 7, identical with Ia.). [Similar.]
liabilities contracted or incurred during the time he was a stockholder, as the amount of stock or shares owned by him bears to the whole of the subscribed capital stocks or shares of the corporation or association.” (Section 14, p. 168)

Consideration by committee of the whole, August 2:29

Motion: Weisenburger moved a substitute as follows: “The Legislature shall have no power to pass any act granting any charter for banking or insurance purposes, but corporations or associations may be formed for such purposes under general laws. No corporation, association, or individual shall issue or put in circulation as money anything but the lawful money of the United States. Each stockholder of any such corporation or joint stock association shall be individually and personally liable equally and ratably, and not one for another for all contracts, debts, and engagements of such corporation or association occurring while they remain such stockholders, to the extent of the amount of their stock therein at par value thereof in addition to the amount invested in such shares.”

Action: Motion carried 22 to 20.

Discussion as follows:

For: Stiles preferred the substitute. He said the section as reported was made up by a piecemeal process from a California section and that it was mixing up two systems.

Motion: J. Z. Moore moved to strike the sentence about issuing money as he felt the United States Constitution and the National Banking Act provided against the same thing.

Action: Motion lost 20 to 17.

Discussion as follows:

For: Moore supported his motion and in answer to Crowley’s objection said that the National Banking Act provided for the problem therein posed.

Against: Crowley feared that this amendment would open the way for wildcat banks. Weisenburger and Dyer also opposed.

Motion: Power moved to add “except as authorized by the United States” after “money”.

Action: Motion withdrawn.

Motion: Browne moved to amend so that no banking corporation shall issue anything to circulate as money.

Action: Motion lost by a vote of 14 ayes and noes not counted.

Motion: Minor offered a substitute prohibiting anything but federal money of the United States from being used as money.

Action: Motion lost.

Discussion as follows:

Against: Browne thought “federal money” too vague a term. Buchanan agreed and thought there was no such thing known to law. Kinnear said the clause as it stood in the section was as well expressed as any and was found in several state constitutions.

Motion: E. H. Sullivan moved to strike the first sentence.

Action: Motion carried 22 to 19.

The section was approved as amended 35 to 20.

Final action by Convention, August 6:

Decision of committee of the whole accepted 50 to 18. (p. 253)

Voting against: Berry, Buchanan, Coey, Dunbar, Durie, Eshelman, Fairweather, Glascock, Griffitts, Hayton, Henry, McCroskey, McDonald, R. S. More, Neace, Suksdorf, Tibbetts, and Warner. Absent and not voting: Allen, Browne, Dallam, Gowey, Gray, Hicks, and Jeffs.

Section 12

Present Language of the Constitution:

RECEIVING DEPOSITS BY BANK AFTER INSOLVENCY. Any president, director, manager, cashier, or other officer of any banking institution, who shall receive or assent to the reception of deposits, after he shall have knowledge of the fact that such banking institution is insolvent or in
failing circumstances, shall be individually responsible for such deposits so received.

Original language same as present.30

Proposition submitted to Convention by Dyer, July 12:

That it be a crime for any bank officer to receive deposits, or create debts, if the bank was insolvent or in failing circumstances. (p. 68)

Text as given in report of committee, July 26:

“It shall be a crime, the nature and punishment of which shall be prescribed by law, for any president, director, manager, cashier or other officer of any banking institution, to receive or assent to the reception of deposits after he shall have knowledge of the fact that such banking institution is insolvent or in failing circumstances, and any such officer, agent or manager shall be individually responsible for such deposits so received.” (Section 15, p. 168)

Consideration by committee of the whole, August 2:31

Motion: E. H. Sullivan moved to insert “civilly” in place of “individually” in the last line.

Action: Motion withdrawn. Dunbar pointed out that the amendment would destroy the object of the section and Sullivan agreed.

Motion: Turner proposed a substitute striking out all criminal portions, leaving a declaration of individual responsibility and allowing the Legislature to declare what was a crime.

Action: Motion carried.

Discussion as follows:

For: Turner said it was the business of the Legislature to declare such conduct a crime. P. C. Sullivan agreed.

Motion: Stiles moved to further amend by stating “banking corporations” instead of “banking institutions”.

Action: Motion lost.

30. Insolvent Banks Shall Not Receive Deposits: Mo., Const. (1875), Art. 12, sec. 17 (La., Const. (1879), Art. 241, identical with Mo.). [Similar.]
Final action by Convention, August 10:

**Motion:** Jamieson moved to strike out "or in failing circumstances".

**Action:** Motion lost. (p. 319)

### Section 13

**Present Language of the Constitution:**

**COMMON CARRIERS, REGULATION OF.** All railroad, canal and other transportation companies are declared to be common carriers and subject to legislative control. Any association or corporation organized for the purpose, under the laws of this state, shall have the right to connect at the state line with railroads of other states. Every railroad company shall have the right with its road, whether the same be now constructed or may hereafter be constructed, to intersect, cross or connect with any other railroad, and when such railroads are of the same or similar gauge they shall at all crossings and at all points, where a railroad shall begin or terminate at or near any other railroad, form proper connections so that the cars of any such railroad companies may be speedily transferred from one railroad to another. All railroad companies shall receive and transport each the other's passengers, tonnage and cars without delay or discrimination.

Original language same as present. 32

Proposition submitted to Convention by Godman, July 10:

That railroads have the right of connection and crossing of other railroads and must without delay or discrimination carry each others passengers, tonnage and cars, and the Legislature to provide penalties for failure to do so. (p. 46)

Text as given in report of committee, July 26:

Same as final. (Section 16, p. 168)

### Section 14

**Present Language of the Constitution:**

**PROHIBITION AGAINST COMBINATIONS BY CARRIERS.** No railroad company, or other common carrier, shall

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32. Common Carriers, Rights and Duties: Cal., Const. (1879), Art. 12, sec. 27; Penn., Const. (1873), Art. 17, sec. 1; Mo., Const. (1875), Art. 12, sec. 13. [Similar.]
combine or make any contract with the owners of any vessel that leaves port or makes port in this state, or with any common carrier, by which combination or contract the earnings of one doing the carrying are to be shared by the other not doing the carrying.

Original language same as present. 33

Text as given in report of committee, July 26:

Same as final. (Section 17, p. 169)

Consideration by committee of the whole, August 2: 34

Motion: Comegys moved to strike the section.

Action: Motion lost.

Standard records vote as 28 to 25; Ledger as 26 to 25; Review says it was 25 to 25 tie which was broken by the vote of the chair to lose 26 to 25.

Discussion as follows:

For: Comegys did not think it was possible to interfere and regulate commerce like this. Griffitts feared the section was an attempt to regulate commerce between states and foreign countries. He thought pooling was adequately covered by the section on monopolies and trusts. Buchanan said there was a possibility of the Northern Pacific joining with some ship company to form a Japan line. He thought this would provide competition with the Canadian Pacific which he did not want prohibited. Godman thought the section unnecessary. Turner did not think the state need be prevented from saying that it would not give the machinery of its courts to the enforcement of any pooling system. Weisenburger said there were now steamboats on Puget Sound and he hoped that soon there would be railroads on either side of it. He did not think the state would want to prevent pooling between the boats and these roads. Minor said the California constitutional provision against pooling had not had the slightest effect in practice.

33. Certain Combinations Forbidden: Cal., Const. (1879), Art. 12, sec. 20. [Identical.]

34. Review, Ledger, Globe, August 3; Standard, August 9, 1889.
Against: Power explained that the Pacific mail steamship company and the transcontinental railway pooled and kept up freights. Kinnear was opposed to all schemes of pooling and proposed to apply this principle to all common carriers.

Motion: Godman moved to strike “leave port or make port” and insert “plying between ports in this state”.

Action: Motion lost.

Discussion as follows:

Against: Warner said this amendment would destroy the effect of the section.

The motion to strike the section lost, as did the motion to adopt it, so the section was sent before the Convention without recommendation.

Final action by Convention, August 6:

Motion: McReavey moved to strike the section.

Action: Motion lost 43 to 21. (p. 258)

Voting to strike: Blalock, Bowen, Burk, Comegys, Crowley, Dickey, Fairweather, Gowey, Gray, Jamieson, Jones, McReavey, Minor, Morgans, Sohns, Stevenson, Stiles, Tibbetts, Weir, West, and Winsor. Absent and not voting: Allen, Browne, Dallam, Hicks, Jeffs, McCroskey, McDonald, Newton, Sharpstein, Sturdevant, Van Name, and Willison.

Section 15

Present Language of the Constitution:

PROHIBITION AGAINST DISCRIMINATING CHARGES. No discrimination in charges or facilities for transportation shall be made by any railroad or other transportation company between places or persons, or in the facilities for the transportation of the same classes of freight or passengers within this state, or coming from or going to any other state. Persons and property transported over any railroad, or by any other transportation company, or individual, shall be delivered at any station, landing or port, at charges
not exceeding the charges for the transportation of persons and property of the same class, in the same direction, to any more distant station, port or landing. Excursion and com­mutation tickets may be issued at special rates.

Original language same as present. 35

Text as given in report of committee, July 26:

Same as final. (Section 18, p. 169)

Final action by Convention, August 6:

Motion: Gowey moved to insert after the word "landing" in line eight, the words "under substantially similar cir­cumstances and conditions."

Action: Motion lost. (p. 258)

Section 16

Present Language of the Constitution:

PROHIBmON AGAINST CONSOLIDATING OF COM­PETING LINES. No railroad corporation shall consolidate its stock, property or franchises with any other railroad cor­poration owning a competing line.

Original language same as present. 36

Proposition submitted to Convention by Sharpstein, July 10:

That combinations for controlling prices of transportation of commodities be prohibited. (p. 43)

Text as given in report of committee, July 26:

Same as final. (Section 19, p. 169)

Consideration by committee of the whole, August 2: 37

Motion: Schooley offered a substitute which set forth the same ideas but in a longer form.

35. Discrimination in Rates Forbidden: Cal., Const. (1879), Art. 12, sec. 21. [Identical] Penn., Const. (1873), Art. 17, sec. 7 (Mo., Const. (1875), Art. 12, sec. 23, identical with Penn.). [Similar in part.]

36. Shall Not Consolidate: Ill., Const. (1870), Art. 11, sec. 11; Penn., Const. (1873), Art. 17, sec. 4 (Mo., Const. (1875), Art. 12, sec. 17, identical with Penn.); Wash., Const. (1878), Art. 13, sec. 3; Tex., Const. (1876), Art. 10, sec. 5. [Similar in part.]

37. Review, August 3; Standard, August 9, 1889.
Action: Motion lost.

Motion: Dyer moved to amend so as to read "owning or oper-
ing".

Action: Motion lost.

Section 17

Present Language of the Constitution:

ROLLING STOCK, PERSONALTY FOR PURPOSE OF TAXATION. The rolling stock and other movable property belonging to any railroad company or corporation in this state, shall be considered personal property, and shall be liable to taxation and to execution and sale in the same man-
ner as the personal property of individuals and such property shall not be exempted from execution and sale.

Original language same as present.38

Text as given in report of committee, July 26:

Same as final except it does not include that such property shall be liable to taxation. (Section 20, p. 169)

Consideration by committee of the whole, August 2:39

Motion: Turner moved to insert "taxation and to" between the words "liable to" and "execution".

Action: Motion carried.

Motion: Jones moved to strike the last clause of the section.

Action: Motion lost.

Discussion as follows:

For: Jones could not see any reason to retain these words. Griffitts favored declaring that this sort of prop-
erty was taxable, but thought it should be done in the article on revenue and taxation.

Against: Weisenburger wanted the Constitution to make

38. Rolling Stock, Personal Property: Ark., Const. (1874), Art. 17, sec. 11; Ill., Const. (1870), Art. 11, sec. 10 (Mo., Const. (1875), Art. 12, sec. 16, identical with Ill.); Neb., Const. (1875), Art. 11, sec. 2; Tex., Const. (1876), Art. 10, sec. 4. [Very similar.]

it clear that this kind of property could not be exempted by the Legislature. Moore favored leaving the section and letting the courts construe it. Kinnear said the provision had come from the Illinois constitution. T. M. Reed also opposed the motion.

Final action by Convention, August 6:

Decision of committee of the whole accepted. (p. 253)

Deleted Section

Text as given in report of committee, July 26:

“A railroad commission consisting of three members is hereby established. The railroad commissioners shall be qualified electors of the state and shall be elected by the state at large at the general state elections, and their term of office shall commence on the Monday following the first day of January next succeeding their election. The commissioners elected at the election held upon the adoption of the Constitution shall at their first meeting so classify themselves by lots, that one shall hold office for the term of three years, one for the term of five years, and one for the term of seven years, and they shall certify the results of such casting of lots to the Secretary of State. After the first election the term of each commissioner shall be for six years. In the event of a vacancy existing in such commission the Governor shall fill the same by appointment and the person so appointed shall hold office until the next general election and the person so elected shall hold for the remainder of the unexpired term.

“A majority of said commissioners shall have power to transact any of its business. It shall be the duty of such commissioners to exercise a supervisory control over all railroads, canals, and other transportation companies, associations, and corporations and over all other common carriers, and in the absence of legislation upon the subject to regulate fares and freights and prescribe and limit the charges therefor to prevent abuses, discrimination, and extortion by such companies, associations, or corporations and to perform such other duties as may be prescribed by law. The Legislature shall enact all laws necessary to carry the foregoing provisions into effect and shall more fully define the qualifications, powers, duties,
responsibilities, and fix the compensation of railroad commissioners. (Section 21, p. 170)

Text as given in minority report submitted by P. C. Sullivan, July 26:

"The Legislature shall pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight and to correct abuses and prevent discrimination and extortion in the rates of freight and passenger tariffs on the different railroads and other common carriers in this state and shall enforce such laws by adequate penalties. A railroad commission may be established and its powers and duties fully defined by law." (p. 172)

Text of protest against this section in minority report submitted by Henry, July 29:

"I dissent from the recommendation of the majority of said committee in regard to this section and recommend that it does not pass for the following reasons:

"First: Because I believe that the creation of the commission contemplated thereby with the extraordinary powers conferred upon it, to supervise and regulate the affairs of individuals or associations of individuals engaged in certain specified lines of lawful business to the exclusion of others, is discriminating, arbitrary, and unjust in the extreme, and in violation of the fundamental principles of free government.

"Second: That the powers conferred upon said commission ... is a delegation to one and the same person of all the powers which the people in the formation of governments for themselves have jealously separated into three independent departments, as said section, in its terms creates a board of three persons, a majority of whom can exercise legislative, judicial and executive powers, or who in other words can enact such rules or laws as they may deem necessary to regulate fares and freight, the charges therefor and to prevent abuses, discrimination and extortion [and] therefore sit as judges of the facts and of the law thus enacted by themselves, and exercise the executive arm of the government in enforcing their decrees.

"Third: That the effect of the same whether it is enforced or not will be to prevent the investment of capital in the development of the resources of the state, to paralyze the great enter-
prises of improvement which have already been commenced, and to prevent the inauguration of others now in contemplation, thus cutting off the hopes of competition against those who now have control of the carrying business, which I regard as the only practicable and sure remedy against every species of monoply.” (p. 188)

Consideration by committee of the whole, August 2:

**Motion:** P. C. Sullivan moved that the minority report be adopted.

**Motion:** Kinnear moved to amend by substituting the majority report.

**Action:** These two motions were left pending when the committee rose to report progress and a vote was taken on them on the following day.

**Discussion as follows:**

**For Majority Report:** Kinnear favored the majority report because he said twenty-one other states had railroad commissioners without the power to enforce their acts but that railroads complied with their orders. He saw it as a way of settling complaints without the courts and of saving the poor man those expenses. He said it had been impossible in the past to get a railroad commission established by the Legislature and that it would not be done in the future.

E. H. Sullivan asked if any states had this provision in their constitutions. Kinnear answered that one did and the others had accomplished it by legislative action. Sharpstein said railroad lobbyists and others who agreed that injustice was being done claimed that attempts to correct wrongs would drive capital from the state. He favored corrections being made and thought the Constitution was the place to do it.

**For Minority Report:** P. C. Sullivan thought the majority report would be a serious blow to the prosperity of the state and called attention to the many protests against it which had been received.

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40. *Review, Ledger, Globe, August 3; Argus, August 8; Standard, August 9, 1889.*
Discussion was continued the following day.

Further consideration by committee of the whole, August 3:  

**Motion:** Griffitts moved to amend the majority report by adding a proviso. "Provided, that the Legislature may abolish the commission herein created by a two-thirds vote."

Sharpstein suggested "majority" in place of "two-thirds" and Griffitts accepted this.

**Action:** The chair ruled this amendment out of order because the pending question of "minority" or "majority" report had not yet been determined. The Convention sustained this decision of the chair.

Discussion on the pending motions was continued:

**For Majority Report:** Griffitts, who desired a commission elected by the people, pointed to Yakima as a town ruined by the refusal of the railroad to establish a station there. He said a commission could have settled the question more fairly. He believed that the numerous petitions of complaint were the opinion of a minority. Weisenburger didn’t like the section as it was, but he would vote for a commission as he thought regulation was necessary. Warner thought the formation of a commission should be made mandatory on the Legislature in order to right the wrongs of the people. If it was left to the Legislature, he feared a railroad lobby would defeat the action. J. M. Reed explained how dependent the farmers were on these railroad lines. He said a board of commissioners could equalize the burden between the carrier and the producer. Comegys said he would support the majority report, but believed it had to be amended. Eshelman favored a commission and did not trust the Legislature to form one unless directed to by the Constitution. Buchanan quoted California records to prove that the commission there had served to reduce rates. Power thought a commission would reduce rates and should be put in the Constitution. Dyer said King County felt the need for more railroads, and although he feared that a commission was liable to keep in power the monopoly which controlled the territorial

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41. Review, Ledger, Globe, August 4; Times, August 3; Statesman, August 5; Standard, August 9; Argus, August 15, 1889.
roads, he believed the policy of the state should be defined so that capital knew where it stood.

Turner favored a commission. He said that the argument that it was legislative could also be used against other articles such as the one dealing with the courts. He believed a commission would protect people and aid the railroads themselves by bringing true facts to the attention of the superior officers over the heads of grasping subordinates. He said that a commission could be reasonable in settling rates and could take all factors into consideration so that new roads would not be at a disadvantage with older established ones. He cited the example of Yakima to show how railroads had pressed a heavy hand upon the territory. He said the Northern Pacific railroad had built its line through Yakima’s corporate limits but had refused to stop its trains at Yakima and instead had built a station and a town four miles further down the line. Yakima was ruined and houses actually were placed on wheels and moved along to the other depot. Yakima had turned to the courts for relief which was granted, but the railroad company had appealed to the United States Supreme Court and the appeals still reposed in the archives of that court. Meanwhile, Turner continued, not a vestige of Yakima remained. He concluded that a railroad commission could prevent wrongs while courts were forced to wait before acting until the wrong had already been committed.

J. Z. Moore believed a commission should be made mandatory on the Legislature, but he opposed the election of commissioners, maintaining that it would throw a corrupting influence into politics. Minor said he would vote for the majority report although he wanted to amend it later. He thought the commissioners should be elected by the Legislature and hold their office at its pleasure. Godman and Joy expressed intention of voting for the majority report, but also with intent to later amend.

Against Majority Report: E. H. Sullivan was opposed to the section as being wrong in principle. He thought that if the Legislature could render the commission inoperative by stopping salaries, the entire matter should
be left to the Legislature. Henry opposed all commissions as preventing the correction of abuses. He believed the capitalists would not build in a state that was so controlled. He said that where there is free competition there is no danger of monopoly. Stiles pointed out that only one other state, California, had such a constitutional provision and said it had proved of no use there. He did not think three men should legislate for all the state by fixing rates and rules and regulations.

**Action:** The vote to substitute the word “majority” for “minority” carried by 39 ayes, noes not counted. The majority report was now before the committee.

**Motion:** Griffitts moved his amendment that the Legislature be given power to abolish such a commission.

**Action:** Before a vote was taken on this motion, the committee rose to report progress to the Convention and the motion was left pending.

Final consideration by committee of the whole, August 5:

**Motion:** Turner moved to amend Griffitts’ motion by substituting “two-thirds” for “majority.”

**Action:** Motion lost. A further amendment to substitute “three-fifths” for “majority” also lost.

The result of Griffitts’ motion is never clearly stated, although from accounts given it is certain that it lost.

A vote was then taken on the section and it was rejected 36 to 22. Sharpstein and Turner spoke in favor of a commission and Cosgrove spoke against.

**Action by Convention, August 6:**

Amendments of committee of the whole accepted 43 to 27. (p. 253) *Standard* gives vote as 46 to 24.

**Voting against:** Berry, Blalock, Clothier, Comegys, Crowley, Godman, Henry, Jamieson, Jones, Joy, Lillis, Lindsley, McDonald, McReavey, R. S. More, Newton, Sohns, Stevenson, Sturdevant, Stiles, E. H. Sullivan, P. C. Sullivan,
Travis, Van Name, Weir, and West. Absent and not voting: Allen, Browne, Dallam, Hicks, and Jeffs.

Motion: Turner moved to amend by striking out all the section and inserting that there shall be a railroad commission of three members elected every four years by the Legislature and to have such powers as the Legislature prescribes.

Action: Motion lost 42 to 28. (p. 254)


Motion: Lindsley moved to strike out the section.

Action: Motion carried 47 to 23. (p. 254)


The same debates were again brought forward and Turner charged that a railroad lobby had been busy over the weekend. He was taken to task by members of the Convention for this accusation and the Statesman, August 8, sharply criticized him for his statements.

Final action by Convention, August 10:

Motion: Turner moved an additional section which would provide for a railroad commission. The three commissioners were to hold office for four years, be appointed by the Governor, and their power and duties were to be prescribed by law.

Motion: Griffitts moved to amend so as to have the commissioners elected by the people.

Action: Griffitts' motion lost 37 to 26.

44. Times, August 10; Globe, August 11; Statesman, August 12, 1889.

Action: Turner's proposed section lost 39 to 24.


Section 18

Present Language of the Constitution:

MAXIMUM RATES FOR TRANSPORTATION. The legislature shall pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight, and to correct abuses and prevent discrimination and extortion in the rates of freight and passenger tariffs on the different railroads and other common carriers in the state, and shall enforce such laws by adequate penalties. A railroad and transportation commission may be established and its powers and duties fully defined by law.

Original language same as present:45

Proposition submitted to Convention by Godman, July 10:

That railroads as common carriers are subject to regulation by law and must be forbidden to charge excessive or extortionate

45.Regulation of Fares and Rates: Ill., Const. (1870), Art. 11, sec. 15; Ark., Const. (1874), Art. 17, sec. 10; Tex., Const. (1876), Art. 10, sec. 2. [Similar.] Railroad Commission: Cal., Const. (1879), Art. 12, sec. 22. [Similar in substance.]
rates or to discriminate in rates against person or places under penalty of legislative law. (p. 46)

Text as given in report of committee, July 26:

Same as final except that it did not include the part relating to a railroad and transportation commission. (Section 22, p. 170)

Consideration by committee of the whole, August 5:

Motion: P. C. Sullivan proposed an amendment that a railroad commission may be established.

Motion: Stiles moved to amend it to read “a railroad and transportation commission.”

Action: Motion as amended carried.

Final action by Convention, August 6:

Decision of committee of the whole accepted 64 to 5. (p. 254)


Section 19

Present Language of the Constitution:

TELEGRAPH AND TELEPHONE COMPANIES. Any association or corporation, or the lessees or managers thereof, organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph and telephone within this state, and said companies shall receive and transmit each other’s messages without delay or discrimination and all of such companies are hereby declared to be common carriers and subject to legislative control. Railroad corporations organized or doing business in this state shall allow telegraph and telephone corporations and companies to construct and maintain telegraph lines on and along the rights of way of such railroads and railroad companies, and no railroad corporation organized or doing business in this state shall allow any telegraph corporation or company any facilities, privileges or rates for transportation of men or material

46. Ledger, Globe, August 6; Standard, August 9, 1889.
or for repairing their lines not allowed to all telegraph companies. The right of eminent domain is hereby extended to all telegraph and telephone companies. The legislature shall, by general law of uniform operation, provide reasonable regulations to give effect to this section.

Original language same as present.\(^47\)

Text as given in report of committee, July 26:

Same as final except that is did not include the right of eminent domain for telegraph and telephone companies. (Section 23, p. 170)

Consideration by committee of the whole, August 5:\(^48\)

The section was amended so as to give competing telegraph companies the right to build lines along the railroad, a privilege which had been formerly monopolized by one company.

Action by Convention, August 6:

**Motion:** Griffitts moved to strike words “upon payment of just compensation to be ascertained in the manner provided by law for condemnation of private property for public use” and to add that the right of eminent domain be given to all telegraph and telephone companies. (p. 258)

**Action:** Motion carried.

Final action by Convention, August 10:\(^49\)

**Motion:** Cosgrove moved to amend to make telephone and telegraph companies subject to control of the Legislature.

**Action:** Motion carried.

**Section 20**

**Present Language of the Constitution:**

**PROHIBITION AGAINST FREE TRANSPORTATION FOR PUBLIC OFFICERS.** No railroad or other transportation company shall grant free passes, or sell tickets or passes

\(^47\) Telegraph and Telephone Companies: Colo., Const. (1879), Art. 15, sec. 13; Penn., Const. (1873), Art. 16, sec. 12. [Similar in part; probably for most part original.]

\(^48\) Globe, August 6; Standard, August 9, 1889.

\(^49\) Times, August 10; Globe, August 11; Statesman, August 12, 1889.
at a discount, other than as sold to the public generally, to any
member of the legislature, or to any person holding any public
office within this state. The legislature shall pass laws to car-
ry this provision into effect.

Original language same as present.  

Proposition submitted to Convention by Dyer, July 22:

That state officers be forbidden to accept passes over any rail-
road or steamboat line. (p. 127)

Text of committee report did not include this section.

Final action by Convention, August 6:

Motion: J. Z. Moore moved to add an additional section for-
bidding railroads or transportation companies giving passes or
reduced rates to public officials.

Action: Motion carried 43 to 18. (p. 257)

Voting against: Berry, Blalock, Cosgrove, Dickey, Eshel-
man, Fay, Glascock, Gray, Henry, Jones, Lindsley, Pross-
er, Shoudy, Sohns, Suksdorf, P. C. Sullivan, Turner, and
Van Name. Absent and not voting: Allen, Browne, Dallam,
Dunbar, Godman, Hicks, Jeffs, McCroskey, McDonald,

Motion: Manly moved to add that transportation companies
could give free transportation for legislative members on of-
official business.

Action: Motion lost. (p. 257)

Section 21

Present Language of the Constitution:

EXPRESS COMPANIES. Railroad companies now or
hereafter organized or doing business in this state, shall allow
all express companies organized or doing business in this
state, transportation over all lines of railroad owned or op-
operated by such railroad companies upon equal terms with any
other express company, and no railroad corporation organized
or doing business in this state shall allow any express cor-

50. Free Passes: Cal., Const. (1879), Art. 12, sec. 19; Penn., Const. (1873),
Art. 17, sec. 8.

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poration or company any facilities, privileges or rates for transportation of men or materials or property carried by them or for doing the business of such express companies not allowed to all express companies.

Original language same as present.51

Text of committee report did not include this section.

Final action of Convention, August 6:

Motion: Griffitts moved an additional section that all lines of railroads be open to use of all express companies on equal terms. Text same as final.

Action: Motion carried. (p. 258)

Section 22

Present Language of the Constitution:

MONOPOLIES AND TRUSTS. Monopolies and trusts shall never be allowed in this state, and no incorporated company, co-partnership, or association of persons in this state shall directly or indirectly combine or make any contract with any other incorporated company, foreign or domestic, through their stockholders, or the trustees or assignees of such stockholders, or with any copartnership or association of persons, or in any manner whatever for the purpose of fixing the price or limiting the production or regulating the transportation of any product or commodity. The legislature shall pass laws for the enforcement of this section by adequate penalties, and in case of incorporated companies, if necessary for that purpose, may declare a forfeiture of their franchises.

Original language same as present.52

Proposition submitted to Convention by Kinnear, July 9:

To have an anti-monopoly clause that would forbid such combinations and would require the Legislature to assess penalties even to the forfeiture of property and franchise. (p. 34)

51. Railroads Shall Not Discriminate Against Express Companies: Probably original, although many states with constitutions subsequent to Washington have similar provision.

52. Trusts and Monopolies: Probably original.
Text as given in report of committee, July 26:

"Monopolies and trusts are contrary to the best interests of free governments, and shall never be allowed in this state, and no incorporated company, co-partnership or association of persons in this state shall directly or indirectly combine or make any contract with any other incorporated company, foreign or domestic, through their stockholders or the trustees or assignees of such stockholders, or with any co-partnership or association of persons, or in any manner whatever for the purpose of fixing the price or regulating the production or transportation of any product or commodity. The Legislature shall pass laws for the enforcement of this section by adequate penalties and in the case of incorporated companies, if necessary for that purpose, may declare forfeiture of their property and franchises." (Section 24, p. 171)

Final action by Convention, August 10:

Motion: Cosgrove moved to strike out the declaration that monopolies and trusts were contrary to the best interest of free governments.

Action: Motion carried.

Passage of Article

Article on Corporations other than Municipal approved by Convention, August 10, by a vote of 60 to 4. (p. 325)


Report of Committee on Revision, August 19:

Declared that the following clause from Section 19 dealing with telephone and telegraph companies had been omitted:

"upon payment of just compensation to be ascertained in the manner provided by law for the condemnation of private property for public use." (p. 399)

Convention refused to insert the words by a vote of 35 to 24. (pp. 399-400)

53. Times, August 10; Globe, August 11, 1889.

Protest to refusal filed by Turner, Hoyt, Gowey, T. M. Reed, and Weisenburger, August 19:

"The undersigned members of the Constitutional Convention respectfully protest against the action of the Convention in refusing to amend the Article on Corporations so as to require telegraph corporations proposing to occupy the roadbed of railroad companies to make just compensation for the same because

"1st. Said amendment was adopted in committee of the whole and in the Convention and was by mistake omitted from the printed article adopted by the Convention.

"2nd. The Article in its present form allows the confiscation of the roadbeds of railroad companies or so much thereof as may be necessary for telegraph companies." (p. 400)
ARTICLE XIII

STATE INSTITUTIONS

This article caused no dissension. The Convention struck a section reported by the committee which provided that all public institutions and buildings be located at the seat of government.

The Committee for State Institutions and Public Buildings was appointed July 9. (p. 19)

Members: T. M. Reed, chairman; Lindsley, Winsor, Hayton, McCroskey, Travis, and McElroy.

Section 1

Present Language of the Constitution:

EDUCATIONAL, REFORMATORY AND PENAL INSTITUTIONS. Educational, reformatory and penal institutions; those for the benefit of blind, deaf, dumb, or otherwise defective youth; for the insane or idiotic; and such other institutions as the public good may require, shall be fostered and supported by the state, subject to such regulations as may be provided by law. The regents, trustees, or commissioners of all such institutions existing at the time of the adoption of this Constitution, and of such as shall thereafter be established by law, shall be appointed by the governor, by and with the advice and consent of the senate; and upon all nominations made by the governor, the question shall be taken by ayes and noes, and entered upon the journal.

Original language same as present.¹

Text as given in report of committee, August 6:

Same as final. (p. 250)

Deleted Section

Text as given in report of committee, August 6:

“All state institutions and public buildings of the state not provided for by law at the time of the adoption of this Constitution shall be located at the permanent seat of government, unless otherwise provided by law.” (Section 2, p. 251)

¹. Educational Reformatory and Penal Institutions: Colo., Const. (1876), Art. 8, sec. 1; Wash., Const. (1878), Art. 14, sec. 1. [Identical in part.] Ohio, Const. (1851), Art. 7, secs. 1, 2. [Similar.]
Consideration by committee of the whole, August 8:

**Motion:** Griffitts moved to strike the section.

**Action:** Motion carried.

Final action by Convention, August 8:

Decision of committee of the whole accepted. (p. 286)

**Passage of Article**

Article on State Institutions approved by Convention, August 8, by a vote of 67 to 1. (p. 286)

**Voting against:** J. Z. Moore. **Absent and not voting:** Allen, Browne, Dallam, Fairweather, Hungate, Jeffs, and Travis.

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2. Tacoma Daily Ledger, August 9, 1889.
ARTICLE XIV SEAT OF GOVERNMENT

The more important cities of the territory were anxious to be named the permanent seat of state government. North Yakima made an especially strong bid. The advantages that city claimed were set forth by the Yakima Herald during July and August. A pamphlet illustrating with pictures as well as words the reasons for making North Yakima capital of the state was sent to every delegate at the convention and to leading territorial newspapers. The Herald noted the favorable reception these “handsome pamphlets” received.¹

Some delegates tried to postpone the date for voting on this question to enable cities suffering from recent fire losses time to rebuild and enter the race. This faction was not strong enough, however, and the vote was set for the same time as the voting on the Constitution.

A section giving the Legislature too much leeway for building and repairing the temporary capitol buildings at Olympia, before the permanent seat was chosen, was modified to hold such expenditures to the barest minimum for necessary repairs.

The Committee for State Institutions and Public Buildings was appointed July 9. (p. 19)

Members: T. M. Reed, chairman; Lindsley, Winsor, Hayton, McCroskey, Travis, and McElroy.

The choice of T. M. Reed as committee chairman caused some dissension; it was said that a delegate from Olympia could not be expected to be completely impartial in the selection of a permanent capital.²

Section 1

Present Language of the Constitution:

STATE CAPITAL, LOCATION OF. The legislature shall have no power to change, or to locate the seat of government of this state; but the question of the permanent location of the seat of government of the state shall be submitted to the qualified electors of the Territory, at the election to be held for the adoption of this Constitution. A majority of all the votes cast

1. Yakima Herald, July 18, 1889.
2. Tacoma Morning Globe, August 3, 1889.
at said election, upon said question, shall be necessary to de-
termine the permanent location of the seat of government for
the state; and no place shall ever be the seat of government
which shall not receive a majority of the votes cast on that
matter. In case there shall be no choice of location at said first
election the legislature shall, at its first regular session after
the adoption of this Constitution, provide for submitting to
the qualified electors of the state, at the next succeeding gen-
eral election thereafter, the question of choice of location be-
tween the three places for which the highest number of votes
shall have been cast at the said first election. Said legislature
shall provide further that in case there shall be no choice of
location at said second election, the question of choice between
the two places for which the highest number of votes shall
have been cast, shall be submitted in like manner to the qual-
ified electors of the state at the next ensuing general election:
Provided, That until the seat of government shall have been
permanently located as herein provided, the temporary location
thereof shall remain at the city of Olympia.

Original language same as present.

Text as given in report of committee, August 6:

Same as final except that it provided that the question be sub-
mitted at the general election in October, 1889. (p. 251)

Consideration by committee of the whole, August 8: 3

Motion: Prosser moved to amend so that the question would
be submitted on the first Tuesday after the first Monday in
November, 1890.

Motion: Gowey offered as an amendment to the motion a pro-
vision for submission in 1896.

Action: Gowey’s motion lost. Prosser’s motion also lost,
44 to 24.

Discussion as follows:

For: Turner, Cosgrove, Stiles, Dunbar, McElroy, T. M.
Reed, and Lillis favored 1890 as the date for submission.


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Suksdorf and Sturdevant favored postponing it until later. J. Z. Moore feared an immense trade of property would result if the question were put to the people with the Constitution. Power favored 1895 to give cities destroyed by fire a chance to rebuild and bid for the capital. Kinnear and Dyer favored delaying the immediate submission of the question.

Against: Cosgrove, Griffitts, Dunbar, and Godman spoke in favor of immediate submission. Griffitts wanted work to commence on the state buildings as soon as possible.

The Times also lists Reed and McElroy in favor of immediate submission, while the Ledger reports them to be in favor of the Gowey amendment. The Standard agrees with the Times regarding McElroy's position.

Motion: Minor moved to submit the question in 1892.

Action: Motion lost.

Motion: Griffitts moved to submit the question at the Constitutional election.

Action: Motion carried.

Final action by Convention, August 8:

Motion: Prosser moved to change the time of election from that for acceptance of the Constitution to the first general election in October.

Action: Motion lost 44 to 24. (p. 287)


Section 2

Present Language of the Constitution:

CHANGE OF STATE CAPITAL. When the seat of government shall have been located as herein provided, the location thereof shall not thereafter be changed except by a vote
of two-thirds of all the qualified electors of the state voting on that question, at a general election, at which the question of location of the seat of government shall have been submitted by the legislature.

Original language same as present. 3

Text as given in report of committee, August 6:

Same as final. (p. 252)

Section 3

Present Language of the Constitution:

RESTRICTIONS ON APPROPRIATIONS FOR CAPITOL BUILDINGS. The legislature shall make no appropriations or expenditures for capitol buildings or grounds, except to keep the Territorial capitol buildings and grounds in repair, and for making all necessary additions thereto, until the seat of government shall have been permanently located, and the public buildings are erected at the permanent capital in pursuance of law.

Original language same as present. 4

Text as given in report of committee, August 6:

"The Legislature shall have power to provide such means or make such appropriations from the state treasury for repairs and enlargement of the capitol or state buildings at Olympia as shall be deemed necessary and proper for the use of the executive, legislative, and judicial departments of the state and to subserve the public good until the seat of government is permanently fixed and the public buildings erected thereat in pursuance of law." (p. 252)

Consideration by committee of the whole, August 8: 5

Motion: Godman moved a substitute text which was the same as the final except that it did not include "and public buildings erected at the permanent capitol."

Action: Motion carried 35 to 15.


5. Ledger, Standard, August 9, 1889.

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Motion: Gowey moved to add at the end "and public buildings erected at the permanent capitol."

Action: Motion carried.

Motion: Minor moved to strike the substitute.

Action: Motion lost.

Final action by Convention, August 8:

Decision of committee of the whole accepted. (p. 287)

Passage of Article

Article on Seat of Government approved by Convention, August 8, by a vote of 65 to 3. (p. 287)


Absent and not voting: (Not recorded in Journal).
ARTICLE XV HARBORS AND TIDEWATERS.

The article as it came from the committee provided for harbor rims to be controlled by the state with power to lease to municipalities or other corporations in whole or part for a period not to exceed thirty years.

There was a strong effort made in the Convention to vest control of harbors in municipalities, but this failed.

The appointment of Durie as chairman of the committee caused a flurry in some circles for it was feared that this committee would be influential in deciding the fate of the disputed tidelands, and Durie was a substantial owner of Seattle tideland property. It was finally pointed out by Hoyt that there was another committee to handle the tidelands question, and Durie’s vested interests would not be reflected in his work on harbors.¹

Those who wanted control of the valuable tidelands within the harbor area lobbied for donation of these lands to the cities or the power of outright sale vested in the state. Either way they planned to gain possession of these lands.

The Convention successfully provided for perpetual state ownership of the harbor rims, but in practice the article did not provide adequate protection. Primarily through the actions of Judge Thomas Burke, court proceedings so hindered the actions of the harbor commission that the provisions of the section were successfully averted to the desires of the powerful railroad interests.² The commission did accomplish its work, but in a manner which was not offensive to the railroads.

Stiles later pronounced the article a failure. He said it seldom was possible to lay out an arbitrary line to serve as a harbor rim, and concluded that the article had not been put into effective operation because of its inadequacies.³

The Committee for Harbors, Tidewaters, and Navigable Streams was appointed July 9. (p. 20)

Members: Durie, chairman; Prosser, R. S. More, West, Power, Schooley, Stevenson, Weir, and Turner.

Section 1

Present Language of the Constitution:

HARBOR LINE COMMISSION AND RESTRAINT ON DISPOSITION. The legislature shall provide for the appointment of a commission whose duty it shall be to locate and establish harbor lines in the navigable waters of all harbors, estuaries, bays and inlets of this state, wherever such navigable waters lie within or in front of the corporate limits of any city, or within one mile thereof on either side. Any harbor line so located or established may thereafter be changed, relocated or reestablished by the commission pursuant to such provisions as may be made therefor by the legislature. The state shall never give, sell or lease to any private person, corporation, or association any rights whatever in the waters beyond such harbor lines, nor shall any of the area lying between any harbor line and the line of ordinary high water, and within not less than fifty feet nor more than two thousand feet of such harbor line (as the commission shall determine) be sold or granted by the state, nor its rights to control the same relinquished, but such area shall be forever reserved for landings, wharves, streets, and other conveniences of navigation and commerce. [1931 p 417 § 1. Approved November, 1932.]

Original language:

The Legislature shall provide for the appointment of a commission whose duty it shall be to locate and establish harbor lines in the navigable water of all harbors, estuaries, bays and inlets of this state, wherever such navigable waters lie within or in front of the corporate limits of any city or within one mile thereof on either side. The state shall never give, sell or lease to any private person, corporation or association any rights whatever in the waters beyond such harbor lines, nor shall any of the area lying between any harbor line and the line of ordinary high tide, and within not less than fifty feet nor more than six hundred feet of such harbor line (as

the commission shall determine) be sold or granted by the state, nor its right to control the same relinquished, but such area shall be forever reserved for landings, wharves, streets and other conveniences of navigation and commerce.

Text as given in report of committee, August 10:

"The Legislature shall provide for the appointment of a commission whose duty it shall be to locate and establish harbor lines in the navigable waters of all harbors, estuaries, bays, and inlets of the state, wherever such navigable waters lie within or in front of the corporate limits of any city or within one mile thereof upon either side. Such harbor lines shall be so located and established that the water where such lines shall be located and established shall not be less than twenty-four feet deep at ordinary low tide. The state shall never give, sell or lease to any private person, corporation or association any rights whatsoever in the waters beyond such harbor lines, nor shall any of the area lying between any harbor line and the line of ordinary high tide, and within not less than two hundred feet nor more than six hundred feet of such harbor line (as the commission shall determine) be sold or granted by the state, nor its rights to control the same be relinquished, but such area shall be forever reserved for landings, wharves, streets and other conveniences of navigation and commerce." (pp. 316-7)

Text as given in minority report submitted by Weir, August 10:

That the Legislature provide for harbor lines along cities now or hereafter incorporated. That it be at a depth of twenty-four feet at low tide. That there be no privilege for structures to extend beyond this point. That municipalities control this frontage for wharves. That the state not give up the power to take control at any time. (pp. 317-8)

Consideration by committee of the whole, August 13:

Motion: Power moved to strike out the word "high" and insert "low" in the last of the section, and also to strike out all after the word "tide" in the same line, to and including the word feet.”

5. Times, August 13; Ledger, Globe, Seattle Post Intelligencer, Morning Oregonian [Portland, Oregon], Walla Walla Weekly Statesman, August 14; Standard, August 16, 1889.

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The Globe, Ledger, Statesman, Oregonian, and Post Intelligencer credit this motion to Power, but the Times records that it was made by Kinnear.

Action: Motion lost.

Power's amendment provided a general discussion of the issues on harbor lines and tidelands. The following remarks have been divided according to whether or not satisfaction was expressed with the section as reported by the committee.

Discussion as follows:

For amending the committee report:

Jones thought harbor lines should be regular and not have an arbitrary limit between two hundred and six hundred feet. He did not understand why there had to be any limit on the commission's actions and would leave the running of the harbor lines to its findings. He explained that a wharf was needed only below low water mark. Cosgrove did not believe that a harbor line could be established that would do justice to all citizens. He said an attempt to run a line at the twenty-four foot depth would result in a zigzag line. Godman said the section as reported by the committee gave too much power to the commission.

Stiles thought that commerce would suffer if the people would wait until the state could provide proper facilities and he did not think that municipalities could afford the necessary expensive improvements. He concluded that action by private business would be necessary to get the wharves built. P. C. Sullivan agreed that private enterprise would be needed to develop the harbors. He said that private corporations in Tacoma had improvements up to two million dollars on such lands and he did not believe that the city could do this work nor did he think municipalities should gain control of these lands without providing any compensation.

McElroy favored establishing an outside harbor line and he approved placing a maximum limit on the commission, but he feared that such a line would be run across the mouths of navigable rivers which emptied into the Sound and would interfere with navigation on the rivers.
Griffitts approved of a maximum limit being placed on the commission because he feared that commerce might be moved seaward, thus increasing the value of the tidelands. He was afraid the state might be improvident with these lands.

Against amending the committee report:

Durie, the committee chairman, explained that the purpose of the section was to place a maximum and minimum limit upon the Legislature. He did not think the section would prevent the state from leaving rivers open, nor did he think harbor lines would include much of the valuable tidelands. He said that not one hundredth part of those lands in Elliott Bay or Commencement Bay would be included. He thought streets to the waterfront would increase the value of the tidelands which were left. The section allowed control to cities, he explained, and this would create a healthy rivalry and a reduction of wharfage charges.

Turner spoke at length defending the committee report, saying state control of harbors was wise. He thought the committee's purpose of establishing a narrow strip for harbors was successfully expressed. He said a limit fixed between twenty-four feet and low water would not allow a harbor in many cases. Crowley favored the principle of the report as he was opposed to giving control of harbor frontage to private corporations. Prosser thought that cities and the state alone were qualified to control wharfage.

Kinnear feared that the amendment would prevent the extension of the harbor line. He thought that it might become necessary in fixing a proper line to come in upon the shore land.

Dyer and Dunbar favored the section as reported by committee because it forever set apart harbors to be controlled by the state. Buchanan favored the section as giving adequate dockage to deep-sea vessels.

Hoyt opposed the amendment because he said the state could provide for going to any depth that was neces-
sary. He favored making the minimum strip narrower but thought the solution of the harbor question by the commission was proper and just. He then announced that he would move to reduce the two hundred feet limit to fifty feet.

**Motion:** Cosgrove moved to strike out the second sentence of the section.

**Motion:** Gowey moved to amend the amendment by striking out the first two sentences and inserting a general provision establishing harbor lines.

**Action:** Gowey withdrew his amendment in favor of one by Weir.

**Motion:** Weir moved an amendment in the nature of a substitute. “The Legislature shall provide by law for uniformly establishing harbor lines along the harbor frontage of every city now incorporated or hereafter to be incorporated within the state, on the shore of navigable tide water, and when such harbor lines are so established no privilege or franchise shall ever be granted to any individual or corporation for any structure whatever to extend beyond their limits toward or into such navigable water. Every municipal corporation so situated shall have the right to extend its streets and highways across any intervening shore or tide lands to such limit, and shall have full power to control, for the purposes of wharves, warehouses, and kindred improvements, the entire length of its harbor line or frontage so established and limited; and the area between such limit and the line of ordinary low tide and such area shall never be alienated from the state by lease, grant or franchise, but such area shall be for such purposes under control of such municipal corporation, subject, however, to the superior right of the state to resume control of the same at any time.”

**Action:** Motion lost.

The *Ledger* gives the vote as 32 to 23; the *Standard* records it as 33 to 23.

A vote was then taken on Cosgrove’s motion which resulted in a loss.
Discussion as follows:

For: Cosgrove spoke in favor of his amendment and explained that he feared the section as reported since it might authorize the commission to hire a civil engineer. Stiles favored striking the second line since he opposed a twenty-four foot limit. He thought it would limit cities to a narrow strip which might be at considerable distance from the shore line, as at the Puyallup River mouth. He thought the lines should run up the river.

Weir advocated his substitutes since he opposed the absolute limit set by the committee report. If the two hundred to six hundred foot clause prevailed, he believed nine-tenths of the tide lands would be taken within the harbor lines. He thought harbor rims should go beyond low water. In answer to Kinnear’s objection that harbor lines under the substitute would be located on the shore, Weir said that since his substitute fixed no certain depth of water there would be no danger of such a situation ever arising.

Against: Durie opposed Cosgrove’s amendment since he thought that the commission should have authority to employ any personnel which might facilitate its work.

Turner claimed that Weir’s substitute was a part of the same effort made earlier to protect against interference with the rights of shore owners. He said that no judicial decisions had yet favored the rights of the riparian owners. The state had full right to accept or deny their claims to tide lands whether improvements were on them or not. He stated that the courts considered them trespassers unless they had built wharves to deep water, but he believed that some compensation should be given to them. Burk asked if Turner would call all who have invested millions in wharves, canning factories, and industries intruders, to which Turner replied that they had taken out three dollars for every dollar invested.

Motion: Griffitts moved a substitute which left out the two hundred to six hundred foot provision.

Action: Motion carried.
The Ledger and Times record the vote as 28 to 27, while the Standard gives it as 29 to 28.

Discussion as follows:

For: Griffitts claimed that striking out this provision would avoid the tide lands question by preventing such a grant to cities. Stiles favored the substitute. He was against city control as it didn’t work in San Francisco where the state had to take over after the city went into debt. P. C. Sullivan preferred the substitute to the committee report since the latter had for its purpose the reservation of large areas of land from sale.

Against: Durie objected to the substitute as he thought it gave control over the harbors to the state, while he favored local government and city control.

Motion: Turner moved to rise and recommend that the article not pass.

Action: Motion lost.

Motion: Browne moved a substitute which was the same as the section finally appearing in the Constitution except that it had the two hundred to six hundred foot limitation.

Action: Motion carried 32 to 18.

Motion: Hoyt moved to change two hundred feet to fifty feet.

Action: Motion carried.

The Standard recorded that these last two motions were made in the Convention after the committee of the whole arose.

Action by Convention, August 13:

Decision of committee of the whole accepted. (p. 348)

Motion: Weir moved to strike out “and line of ordinary high tide.”

Action: Motion lost. (p. 349)

Motion: Gowey moved to substitute a new section which left out the twenty-four foot depth and provided that municipal
corporations may lease the right to maintain wharves subject to state control at any time.

**Action:** Motion lost 49 to 17. (p. 350)

**Voting for:** Berry, Blalock, Dickey, Durie, Fay, Gowey, Henry, Hicks, Jamieson, Kinnear, McElroy, Minor, T. M. Reed, Stiles, P. C. Sullivan, Turner, and Weisenburger.

**Not voting:** Comegys, Dallam, McDonald, and Sharpstein.

**On leave:** Cosgrove, Hungate, Neace, and Willison.

**Final action by Convention, August 14:**

**Motion:** T. M. Reed moved to substitute “government meander line” for “line of ordinary high tide.”

**Motion:** West moved to amend the amendment by inserting “the line of vegetation.”

**Action:** West withdrew his motion, and that of Reed was lost. (p. 358)

The Standard records Reed’s motion losing 40 to 28.

**Motion:** Griffitts moved to insert in line one “by general laws provided for” instead of “appointment.”

**Action:** Motion lost. (p. 358)

**Motion:** Stiles moved to insert in line two “rivers” after “harbors.”

**Action:** Motion carried. (p. 358)

**Section 2**

**Present Language of the Constitution:**

**LEASING AND MAINTENANCE OF WHARVES, DOCKS, ETC.** The legislature shall provide general laws for the leasing of the right to build and maintain wharves, docks and other structures upon the areas mentioned in section one of this article, but no lease shall be made for any term longer than thirty years, or the legislature may provide by general laws for the building and maintaining upon such area wharves, docks, and other structures.

Original language same as present.č

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6. **Leasing of Sites for Wharves:** Hill, Prop. Wash. Const., Art. 12, sec. 4.
[Probably original.]
Text as given in report of committee, August 10:

"The state shall vest control of said area for general police purposes and for the building and maintenance of wharves, docks, and other structures or the leasing of the right to build and maintain such structures in the municipal corporations fronting thereon, subject, however, to the right of the state to resume control of the same at any time." (p. 317)

Consideration by committee of the whole, August 13:

**Motion:** Browne offered a substitute which was the same as the section which finally appeared in the Constitution except that it carried a lease limit of twenty years.

**Action:** Motion carried 32 to 18.

**Motion:** Kinnear moved to raise the lease limit.

**Action:** Motion carried.

Final action by Convention, August 14:

Decision of committee of the whole accepted. (p. 359)

**Motion:** Stiles moved to insert "licensing" instead of "leasing."

**Action:** Motion lost. (p. 359)

**Discussion as follows:**

**For:** Stiles said the best wharfage system was that of Liverpool, where the wharves were built by the government and a small fee was charged to maintain wharves. He wanted the state to adopt this system which could not be done if the wharves were leased, as the lessees would exact a fee for every pound of freight shipped from their wharves, a tax on commerce. Cosgrove concurred with Stiles that the leasing system would encourage speculation to the detriment of shippers.

**Against:** Warner, Moore, and Browne opposed. Godman didn’t see how the amendment would help since leasing and licensing were the same as long as a license fee was charged.

7. Ledger, August 14, 1889.
Motion: Power moved to limit leasing to wharves and warehouses with the Legislature to provide laws for charges.

Action: Motion lost. (p. 359)

Motion: Griffitts moved to change so as to prevent the Legislature from vesting control in any municipality, or other political subdivision, person, firm, or association.

Action: Motion lost. (p.359)

Section 3

Present Language of the Constitution:

EXTENSION OF STREETS OVER TIDE LANDS. Municipal corporations shall have the right to extend their streets over intervening tide lands to and across the area reserved as herein provided.

Original language same as present.9

Text as given in report of committee, August 10:

"Municipal corporations shall have the right to extend their streets over intervening tide lands to the area reserved as herein provided." (p. 317)

Final action by Convention, August 14:

Motion: Turner moved to amend by inserting after "intervening to" the words "and across."

Action: Motion carried. (p. 359)

Proposed Section

Action of Convention, August 14:10

Motion: Durie moved an additional section the text of which was as follows: "The state shall vest the control of said area for general police purposes and for the building and maintaining of wharves, docks and other structures, or leasing of the right to build and maintain such structures in municipal


10. Times, August 14; Spokane Falls Review, Globe, August 15; Standard, August 16, 1889.

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corporations fronting thereon, subject to such general laws as the Legislature may provide."

**Action:** Motion lost 70 to 3.

**Voting for:** Berry, Durie, and McElroy.

**Discussion as follows:**

**For:** Durie said he didn't think the matter had been fairly considered. He believed that municipalities were capable and should have control of their harbors.

**Against:** Browne, Turner, Hoyt, Dunbar, and Dyer opposed city control of harbors. Griffitts opposed alienation of the tide lands from the state to any corporation, municipal or otherwise. He said he had been told that the Legislature had given the city of Seattle control of certain tide and shore lands which had since been transferred to a private corporation. Browne said the wharves would pay a rental which the state should receive to apply for the benefit of all.

**Passage of Article**

Article on Harbors and Tidewaters was approved by Convention, August 15, by a vote of 49 to 21. (p. 363)

**Voting against:** Eldridge, Fairweather, Godman, Gowey, Gray, Henry, Jones, Lillis, Manly, McDonald, McReavey, Minor, Mires, T. M. Reed, Sharpstein, Stevenson, Stiles, P. C. Sullivan, Tibbetts, Weisenburger, and West. **Not voting:** Dallam, Jamieson, and Sturdevant. **On leave:** Hungate and Neace.