vacancy occurring before the expiration of a term, shall hold only for the unexpired term of his predecessor. The Governor shall have the power to remove either of the Directors for misconduct, incompetency, or neglect of duty, after an opportunity to be heard upon written charges.

Sec. 2. The Board shall appoint the Warden and Clerk, and determine the other necessary officers of the Prison. The Board shall have power to remove the Warden and Clerks for misconduct, incompetency, or neglect of duty; all other officers and employes of the Prisons shall be employed by the Warden thereof, and be removable at his pleasure.

Sec. 4. The members of the Board shall receive no compensation other than reasonable traveling and other expenses incurred while engaged in the performance of official duties, to be audited as the Legislature may direct.

Sec. 5. The Legislature shall pass such laws as may be necessary to further define and regulate the powers and duties of the Board, Wardens, and Clerks, and to carry into effect the provisions of this article.

Sec. 6. After the first day of January, eighteen hundred and eighty-four, the labor of convicts shall not be sold or contracted for to any person, partnership, company, or corporation, and the Legislature shall, by law, provide for the working of convicts for the benefit of the State.

The previous question.

Mr. CONDON. Mr. President: I move the previous question upon the entire article.

Seconded by Messrs. Barton, Doyle, Grace, and German.

The President: The question is: Shall the main question be now put? Carried.

The President: The question is upon the adoption of this article as a part of the Constitution. The Secretary will call the roll.

The roll was called, and the article adopted as a part of the Constitution by the following vote:

AYES.

Ayers, Mr. President—52. Rhoads, Mr. President—35.

Barbour, Mr. President—93. Schamp, Mr. President—40.

Barker, Mr. President—60. Schaper, Mr. President—35.

Barry, Mr. President—60. Shiltz, Mr. President—20.

Barton, Mr. President—70. Jones, Mr. President—45.

Beersheba, Mr. President—15. Stevenson, Mr. President—30.

Bell, Mr. President—15. Swenon, Mr. President—35.

Biggs, Mr. President—15. Smith, Mr. President—35.

Bicker, Mr. President—15. Smith, Mr. President—25.

Booie, Mr. President—15. Jones, Mr. President—35.

Brown, Mr. President—5. Jones, Mr. President—40.

Burt, Mr. President—5. Jones, Mr. President—5.

Chapman, Mr. President—50. Shiltz, Mr. President—15.

Cowan, Mr. President—35. Shiltz, Mr. President—25.

Cowan, Mr. President—15. Shiltz, Mr. President—15.

Dudley, Mr. President—93. Shiltz, Mr. President—35.

Estey, Mr. President—93. Shiltz, Mr. President—35.

Freud, Mr. President—45. Shiltz, Mr. President—25.

Garvey, Mr. President—5. Shiltz, Mr. President—5.

Harrison, Mr. President—35. Shiltz, Mr. President—15.

Heiskell, Mr. President—35. Shiltz, Mr. President—15.

Hilborn, Mr. President—35. Shiltz, Mr. President—15.

Hitchcock, Mr. President—35. Shiltz, Mr. President—15.

Howard, Mr. President—5. Shiltz, Mr. President—5.

Howard, of Los Angeles, Mr. President—45. Shiltz, Mr. President—35.

Hughey, Mr. President—40. Shiltz, Mr. President—35.

Hunt, Mr. President—40. Shiltz, Mr. President—35.

Jones, Mr. President—40. Shiltz, Mr. President—35.

Jones, Mr. President—5. Shiltz, Mr. President—5.

Kenny, Mr. President—20. Smith, Mr. President—40.

Larkin, Mr. President—20. Smith, Mr. President—40.

Lodinow, Mr. President—40. Smith, Mr. President—40.

Martin, of Alameda, Mr. President—20.婕, Mr. President—20.

Mckee, Mr. President—20. Smith, Mr. President—40.

McConnell, Mr. President—40. Smith, Mr. President—40.

Moffat, Mr. President—40. Smith, Mr. President—40.

Mills, Mr. President—20. Smith, Mr. President—40.

Pinkus, Mr. President—20. Smith, Mr. President—40.

Pruitt, Mr. President—20. Smith, Mr. President—40.

Rely, Mr. President—20. Smith, Mr. President—40.

Schomp, Mr. President—40. Smith, Mr. President—40.

Stevenson, Mr. President—40. Smith, Mr. President—40.

Swopes, Mr. President—20. Smith, Mr. President—40.

Sweng, Mr. President—20. Smith, Mr. President—40.

Van Dyke, Mr. President—20. Smith, Mr. President—40.

Vanderwater, Mr. President—20. Smith, Mr. President—40.

Walker, Mr. President—20. Smith, Mr. President—40.

Waters, Mr. President—20. Smith, Mr. President—40.

West, Mr. President—20. Smith, Mr. President—40.

White, Mr. President—20. Smith, Mr. President—40.

Winken, Mr. President—20. Smith, Mr. President—40.

Yeast, Mr. President—20. Smith, Mr. President—40.

Serra, Mr. President—5. Smith, Mr. President—5.

Mr. President—93. Mr. President—93.

The roll was called, and the amendment rejected by the following vote:

AYES.

Ayers, Mr. President—93. Schamp, Mr. President—40.

Barker, Mr. President—93. Observation, Mr. President—93.

Barbour, Mr. President—93. Marag, Mr. President—93.

Barry, Mr. President—93. Marag, Mr. President—93.

Barton, Mr. President—93. Marag, Mr. President—93.

Beersheba, Mr. President—45. Marag, Mr. President—93.

Bell, Mr. President—93. Marag, Mr. President—93.

Biggs, Mr. President—93. Marag, Mr. President—93.

Bicker, Mr. President—93. Marag, Mr. President—93.

Booie, Mr. President—93. Marag, Mr. President—93.

Brown, Mr. President—93. Marag, Mr. President—93.

Burt, Mr. President—93. Marag, Mr. President—93.

Chapman, Mr. President—93. Marag, Mr. President—93.

Cowan, Mr. President—93. Marag, Mr. President—93.

Cowan, Mr. President—93. Marag, Mr. President—93.

Dudley, Mr. President—93. Marag, Mr. President—93.

Estey, Mr. President—93. Marag, Mr. President—93.

Freud, Mr. President—93. Marag, Mr. President—93.

Garvey, Mr. President—93. Marag, Mr. President—93.

Harrison, Mr. President—93. Marag, Mr. President—93.

Heiskell, Mr. President—93. Marag, Mr. President—93.

Hilborn, Mr. President—93. Marag, Mr. President—93.

Hitchcock, Mr. President—93. Marag, Mr. President—93.

Howard, Mr. President—93. Marag, Mr. President—93.

Howard, of Los Angeles, Mr. President—93. Marag, Mr. President—93.

Hughey, Mr. President—93. Marag, Mr. President—93.

Hunt, Mr. President—93. Marag, Mr. President—93.

Jones, Mr. President—93. Marag, Mr. President—93.

Jones, Mr. President—93. Marag, Mr. President—93.

Kenny, Mr. President—93. Marag, Mr. President—93.

Larkin, Mr. President—93. Marag, Mr. President—93.

Lodinow, Mr. President—93. Marag, Mr. President—93.

Martin, of Alameda, Mr. President—93. Marag, Mr. President—93.

Mckee, Mr. President—93. Marag, Mr. President—93.

Moffat, Mr. President—93. Marag, Mr. President—93.

Mills, Mr. President—93. Marag, Mr. President—93.

Pinkus, Mr. President—93. Marag, Mr. President—93.

Rely, Mr. President—93. Marag, Mr. President—93.

Schomp, Mr. President—93. Marag, Mr. President—93.

Stevenson, Mr. President—93. Marag, Mr. President—93.

Swopes, Mr. President—93. Marag, Mr. President—93.

Sweng, Mr. President—93. Marag, Mr. President—93.

Van Dyke, Mr. President—93. Marag, Mr. President—93.

Vanderwater, Mr. President—93. Marag, Mr. President—93.

Walker, Mr. President—93. Marag, Mr. President—93.

Waters, Mr. President—93. Marag, Mr. President—93.

West, Mr. President—93. Marag, Mr. President—93.

White, Mr. President—93. Marag, Mr. President—93.

Winken, Mr. President—93. Marag, Mr. President—93.

Yeast, Mr. President—93. Marag, Mr. President—93.

Serra, Mr. President—93. Marag, Mr. President—93.

Mr. President—93. Marag, Mr. President—93.

Mr. President—93. Marag, Mr. President—93.

The right of eminent domain is hereby declared to exist in the State, as the Legislature may prescribe.

Sect. 2. No individual, partnership, or corporation, claiming or possessing any public property, or any public rights or franchises, as the Legislature may declare, shall be deprived of the use or enjoyment of such property, rights, or franchises, except upon due sentence of law, provided that the right of eminent domain shall be subject to such restrictions as the Legislature may prescribe.

Mr. BARDOUX. Mr. President: I think the amendment is a very proper one. It might be construed to deny the right of eminent domain.
before the Convention it did not suit Judge Hager, and amidst confusion it was struck out. If this is not adopted it will be impossible for other counties than San Francisco to raise any such controversy. Ms. SHAFER. Mr. President: Why were these tide lands purchased by parties? Because they wanted to control the frontage to the bay, and who has the right to say whether they shall be filled in or remain as they are, the more he becomes convinced that they are inter se questions, involving, as they do, the relations betwixt the State and the General Government. I have no hope that anything which I may say will move this Convention. They have just voted to confiscate vested rights; they have just voted that the people who hold titles from the State shall not have the use of those lands, and, therefore, when I undertake to talk upon this subject I have no hope to start in on. I speak simply to enter my protest against this invasion of private rights, and this wrong that is being perpetrated. Now, I have not time to detail into any argument upon the relations between the State and the General Government. I hope, therefore, that this whole article will be stricken out. The first section is provided for elsewhere, and the balance of the section is absolutely void. Mr. SHAFER. Mr. President: Why were those tide lands purchased by parties? Because they wanted to control the frontage to the bay, and who has the right to say whether they shall be filled in or remain as they are, the more he becomes convinced that they are inter se questions, involving, as they do, the relations betwixt the State and the General Government. I have no hope that anything which I may say will move this Convention. 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Now, I have not time to detail into any argument upon the relations between the State and the General Government. I hope, therefore, that this whole article will be stricken out. The first section is provided for elsewhere, and the balance of the section is absolutely void.
Mr. EDGERTON. Mr. President: The important question before the Convention is, as I understand it, a motion to strike out section three, and the amendment offered by Colonel Ayers of Los Angeles. Section three provides that tide lands within two miles of any incorporated city, town, or town, fronting on waters used for the purposes of navigation, shall be sold or leased, under such regulations as the State may direct; and the gentleman from Los Angeles proposes to modify that so that the State may grant, for a consideration, to persons, warehouse, etc., for the period of twenty years. Now, sir, there is no difficulty for such a clause in the first article of the constitution. The course of the Legislature in regard to this property has always been conservative. The Act of eighteen hundred and fifty-five withheld these lands from sale; and the Act of eighteen hundred and fifty-six did the same. The first Act of eighteen hundred and sixty-one did the same. The Act of the following year provided for the disposition of these lands under the most guarded and conservative restrictions. The Act of eighteen hundred and sixty-four was so liberal that the gentleman from Los Angeles, in my opinion, would have made these lands available for commerce and buildings, wharves and warehouses where necessary. But the Act of eighteen hundred and fifty-five was so conservative that the Legislature is now more liberal than that. It has always been in the line of the provision proposed in this article. Now, sir, I say it would be impolitic to adopt this plan. Take, for instance, Oakland.

Mr. AYERS. Does the gentleman notice that the Bay of San Francisco is excepted?

Mr. EDGERTON. But there are other bays on this coast. There are a great many other inlets and estuaries, and I am informed several of them are navigable. Are these mud-flats to lie there forever? Whereas, if they could be sold and filled in they would be of the greatest possible value for warehouses. The Legislature, I am informed, would apply to Oakland and apply to fifteen or twenty other places. These mud flats ought to be reclaimed and applied to the uses of commerce and navigation, and warehousing and warehouses erected where seagoing vessels can load and unload. It seems to me very unwise to put such a provision in the Constitution as the one that is proposed. The Legislature would be in the power of the Legislature to change the provisions of this act if it was thought fit to do so now, or at any time hereafter. Mr. HAGER. Mr. President: The question of tide lands has been before the Legislature again and again, and as we all know the abuses have grown out of the management and sale of tide lands in this State. With regard to the city of San Francisco, an Act was passed authorizing the tide lands there to be sold at auction. It was a well-guarded bill, and under its great deal of money was realized by the State; but by an amendment to that Act the commissioners in charge were authorized to compromise adverse claims, and to sell a large quantity, and then the mischief commenced. Under the authority of this amendment, the so-called Ellis grab, and other, were made. Now, sir, the city of Oakland, which has been referred to. At an early day a charter was granted to the city of Oakland, giving them a little strip of the water front. Some designing men came up afterwards to get a new charter for the city of Oakland; and they secured additional submerged land and in the new charter. Again, when the opportunity occurred in the Legislature, another party came up, with a new charter, and they extended the water front of Oakland so that it run up to Hunter's Point, to the south of the San Francisco side, taking in the city of San Francisco, and the whole of the water front of San Francisco, giving it to those who held under the city of Oakland by a practice that they had adopted to obtain from that city. We have had regular bars and deposits. It was to inure to the benefit of those speculators who had divested the city of Oakland of her patrimony. The city of Oakland, of her property, was taken from the Assembly and came into the Senate; and it was there stated that it was a little local measure. I ask delay, and that night, in examining the bill, I found out what it was; it was to give the water front of these two cities to those who had succeeded Oakland in the title that had been donated to her. Now, as I understand this section, it is intended to prevent such a thing; to prevent the Legislature from violating the Act of Congress under which California was admitted into the Union. It is intended to comply with the Act of Congress upon which we were admitted into the Union—that those navigable waters should remain open and free. Now, we do not know what the filling up of the harbor of San Francisco, or any portion of the, may amount to, and how it may be done. Now, I say, that the filling in of the Bay of San Francisco has endangered the harbor of San Francisco, by forming bars and by deposits. I do not say that we should, by any objection to the section as it stands, interfere with the Legislature in filling up the water front of San Francisco, and the same devil that has been going on in the past may go on in the future.

Mr. ESTEE. Does the gentleman not know that the filling up of these mud flats and the building of wharves and warehouses where ships may go to load and unload facilitates commerce?

Mr. HAGER. Does the gentleman not know that he is going to be the propounder of the rights of the Bay of San Francisco. Whether some provision may not be wisely made in an Act of the Legislature, is another proposition; but the idea of placing such an inhibition as that in the Constitution would be extraordinary, and contrary to the policy of this Convention. I am not addressing myself to the first and last speaker. I speak only of the third. It will be merely perpetuating the great monopolies we know exist there. It will cut off the chance of competition. We want to have the thing open to commerce, and the true reason that I make it is that I wish to commend myself to the judgment of this Convention. The commerce of the Pacific coast comes in the Bay of San Francisco, and to put such an inhibition in the Constitution would be extraordinary, and I hope it will not be done.

Mr. WYATT. Does not this exempt the Bay of San Francisco?

Mr. ESTEE. That is the very thing it should not do. It says that the Bay of San Francisco shall not be leased. If you lease it, you violate it, and it will only perpetuate those monopolies that exist there.
Upon the adoption of the amendment of Mr. Ayers, the ayes and
noes were demanded by Messrs. Howard of Los Angeles, Ayers, West,
Evey, and Brown.

The roll was called, and the amendment rejected by the following
vote:

AYES.
Andrews, Ayers, Ayres, Barry, Boyer, Chapman, Cross, Crouch, Crane,
Edgar, Engel, Estey, Evey, Evey, Evey, Fitcher, Florin, Franklin,
Garvey, Gassert, Grady, Graves, Graves, Green, Hager, Hager,
Hagood, Hagen, Hill, Horne, Inman, Jones, Jones, Jones, Jones,
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