PROHIBITING FREE PASSES.

THE AMENDMENT ADOPTED BY THE CONSTITUTIONAL CONVENTION.

One Delegate Said that the Convention Was Loaded Down with Free Passes and that He Had 'Em Himself—Commodore Vedder Said that Free Dinners Were More Dangerous and Should Be Prohibited Also—The Anti-Prison Labor Amendment Adopted, When It Was on the Point of Being Lost, by Leader Root Coming to the Rescue—The Judiciary Article Taken Up and Considered Until Adjournment—Apportionment Amendment Made a Party Measure by the Republican Caucus.

ALBANY, Sept. 12.—This has been one of the most delightfully interesting days of the Constitutional Convention. President Choate took a day off, and wasn't perched up in the throne chair. He was on the floor all day. It was a relief for him to get down again among the delegates and swap yarns and be chipper. This throne-chair, which is the Speaker of the Assembly's roost in legislative sessions, is perhaps fifteen feet above the floor, and the occupant, in the dim light of the chamber at dusk, looks like a Chinese god. The Oswego statesman, William Steele, Second Vice-President, was up in the perch, and his head and arms swung at intervals very much after the fashion of those beautiful china images with head and arms on swivels. Mr. Steele is an impassive gentleman, and the resemblance between his motions and those adornments of the homes of the rich was by no means uninteresting. Other features contributed to the charm of the day. It was cool, and yet the sun shone blithely. The greensward and the trees in front of the Capitol were as crisp as the ivy of Killarney.

Two new granite steps were added to the entrance of the Capitol. The head of a lion in granite, with a broad grin, also first saw the light to-day. It is on the south side. The delegates paused to look at the new attraction, remarked the peculiarly suggestive grin, and then went on up stairs and tackled a proposed amendment to the Constitution, which had reached its third reading and which declares that no State officers, elected or appointed, shall receive passes from railroads or franks from the telegraph and telephone companies. If he does and he is found out, it is a misdemeanor, and he must forfeit his office. There was an exhaustive discussion over this subject, and through it all very many, if not a vast majority, of the delegates buttoned their coats over their waistcoats. Sticking out just above the right top pocket of these waistcoats were those little wallets of all skins, but particularly alligator, with the corners bound in silver, and peeping from them were bits of stiff bristol board of different hues, with writing on them. And that granite lion down stairs grinned.

This Convention has been jealous of its prerogatives from the start. It has officially declared that it is paramount to the Assembly and the Senate, and in its first hours brushed aside the interference of a Supreme Court Judge. One of the delegates, in the heat of the debate, buttoned his sack coat a little tighter over his expansive chest and declared that the word misdemeanor was not strong enough to fit the occasion, and he insisted upon an amendment declaring it to be a "felony" for any future State officer to accept a pass or a frank. He announced later, though, that at the suggestion of older and wiser friends he wouldn't force his "felony" amendment on the Convention.

De Lancey Nicoll made a strong speech in favor of the proposed amendment. He was very serious when he declared that State officers should be punished if caught violating the amendment. So was Mr. Choate serious when he arose and called Mr. Nicoll's attention to a defect in the amendment which threw the burden of the misdemeanor on the State officer who accepted the pass or frank and let the corporation granting the courtesy or bribe go scot free. Mr. Nicoll said that it was a well-established principle of law that all parties to a misdemeanor or a criminal transaction were equally guilty, and other delegates sustained Mr. Nicoll. But Mr. Choate was not satisfied. He still held that the proposed amendments hould be so changed as to hold the giver of the pass or frank to an equal liability. Mr. Nicoll, out of deference to the distinguished orator and wit, conceded the point, and while other delegates patted their innocent chests as they begged anathemas on all future State officers who accept passes from corporations, Mr. Choate and Mr. Nicoll consulted and fixed the amendment, which will be found in the full details of the Convention's work in another column.

It took a long time, however, to get this amendment straight. While the chestnut locks of Mr. Choate and the auburn pate of Mr. Nicoll bobbed in unison as they conferred, a delegate had the temerity to say that there was a good deal of buncombe in the Convention attempting to put such a matter into the Constitution of the State. This contumacious young man had his sack coat buttoned tight, almost straight, over his waistcoat, and Elihu Root, the leader of the majority, took him severely to task. Mr. Root declared that the giving of passes and franks to State officers was a very serious affair, and was not to be spoken of lightly or without full knowledge of the subject and the responsibilities that surround it. Mr. Root was heartily supported by others, who believed that the proposed amendment was a step to increase civic virtue.

Then up rose ex-Senator Commodore Perry Vedder of Ellicottville, in wicked Cattaraugus. Mr. Vedder was in the Legislature a decade, and in this Convention is Chairman of the Committee on Legislative Powers and second on the Committee on State Finances and Taxation. He hadn't buttoned that snuff-colored bobtail coat. Indeed, he flung aside the lapels, and his wallet, a pretty thick one, was there in the top right pocket of his waistcoat. With deprecatory tone he said that he had been in the Legislature a number of years, and that he had been on friendly intercourse with many other State officers.

"I found them gentlemen," continued Mr. Vedder, and his voice was rising, "made of about the same clay as the members of this Convention—no better and possibly no worse."

Mr. Vedder declared that this Convention had no right to impugn the integrity of future State officers; and his voice rumbled and tumbled like the thunder in "Rip Van Winkle" when he declared, "It is dinners, gentlemen, that are to be feared. Vote against dinners. They're dangerous. Look at the dinners that Chauncey Depew gives. They're most persuasive. They'd charm a Judge on the Supreme Court bench, or a Governor or a President. Then look at the dinners our worthy President, Mr. Choate, gives. They're dangerous, too. It's dinners, gentlemen; fear them; they're dangerous, and yet I know that Depew or Choate would not give a dinner with an ulterior motive. I am opposed to any proposed amendment which tends to reflect upon our future State officers. Abolish the dinners and I'm with you."

The discussion further on elicited a statement to the effect that a system that was started out of courtesy had become a nuisance, and one of the most prominent delegates declared under his breath:

"This Convention is loaded down with passes. I've been 'em, and I know I've got 'em myself. Here they are," and he threw aside his coat, fished out his wallet, and showed passes on almost every railroad in the State.

When his turn came, Nathan A. Woodward, the Senator of Batavia, said that he wanted to give the Convention some sound Genesee county advice.

"You want to carry this Convention through and have it win with the people," he cried. "Well, I'm with you. If we pass an amendment revoking passes the railroads will help us in the fall, and there you are. See? So I'll vote for the amendment, if it is ever ready."

It was just then that Mr. Choate and Mr. Nicoll had come to a satisfactory understanding, and the article was shot through the Convention by a vote of 96 to 44. After the vote the members unfastened their coats and stuck their thumbs in the armholes; and that granite lion down stairs stared add grinned.

In the afternoon a far different matter occupied the whole time of the Convention. When John T. McDonough of Albany was elected a delegate to this Convention his mission was to put through an amendment to prohibit contract labor in the prisons of the State. President Choate was not aware of this and he made Mr. McDonough Chairman of the Committee on State Prisons and Penitentiaries. Mr. McDonough, through his persistent efforts, got his amendment slated for a third reading. This was not accomplished without arduous and exasperating efforts. Many Republicans and just as many Democrats in the Convention were adverse to putting such an amendment into the Constitution of the State. They declared it to be a measure for legislative action. President Choate and Mr. Root were especially opposed to the amendment. But the proposed amendment got through. The labor delegates hustled around, begging for votes, declaring that the amendment would alone insure the adoption by the people of all the other amendments passed by this Convention. But the Republicans and Democrats still believed that the subject was one for legislative action.

When the roll call was about to begin it was found that not eighty delegates were in their seats. There had been 150 a few minutes before. But Dennis P. Merwin, the carpenter delegate of Albany, had enlisted the services of Edward Lauterbach of New York. Mr. Lauterbach made a speech, saying that on the grounds of humanity the convicts of the State should not be put in competition with honest workingmen; that the State should be engaged in better business, and that the poor workingmen had no chance against prison labor, which redounded only to the benefit of contractors. Mr. Kerwin declared that the Democrats had deserted the labor cause and that the Republicans were no better, and both parties would hear from the labor people this fall. This was distasteful to Mr. Lauterbach, and he said so, but his heart was in the amendment and he started out to corral votes. It requires 88 votes to pass a motion, and as the roll call proceeded it was easy to see that Mr. McDonough's amendment was in danger. The surprise came when Mr. Root announced that he had, after consideration and investigation, determined to vote aye. This was great encouragement to the backward and indifferent ones. The fact that the Republican leader had changed front penetrated the corridors, and those who had fled returned, and gradually the vote rose and by this time there were fifty-nine ayes.

President Choate's name is called last on the roll, and, when his name was reached, he rose and almost passionately declared: "I have been told that if I vote for this amendment we can get votes for amendments coming up later on, and I have also been told that this amendment will get votes for my party this fall. I scorn to vote aye for such reasons. I detest such methods. I have been convinced all along that this amendment had no business here, and I vote no." Mr. Choate was applauded.

Up hopped Judge Moore of the Champlain Canal and thereabouts, and he declared that Mr. Choate was wrong in principle and wrong in politics.

Commodore Vedder then came to the rescue of the labor men. The delegates were returning, and Kerwin demanded that the absentees be called, and, furthermore, that all present who had dodged be compelled to vote according to the rules of the Convention. This latter demand was ruled out of order. It was plain that the amendment could not be got through by Republican votes, and the Democrats came to the rescue and swelled the vote to 91 ayes and 52 noes. Many of the Democrats agreed with Mr. Choate that the measure was one for legislative action. Mr. McDonough said to THE SUN reporter: "The amendment never could have passed without the votes of the Democrats."

CONVENTION PROCEEDINGS.

The Anti-Free Pass and Anti-Convict Labor Amendments Adopted.

ALBANY, Sept. 12.—As soon as the Constitutional Convention was called to order this morning Mr. Dickey moved to recommit the amendment providing for the separation of State and local elections, with instructions to amend by adding the following: "This section shall not apply to any city the population of which, according to the latest enumeration, from time to time made, is less than 50,000, nor to elections of any judicial officer except Judges and Justices of inferior local courts." Adopted.

The amendment introduced by Mr. Roche, providing that sixty days' citizenship shall be necessary to voting, was taken up. On motion of Mr. Countryman six months was substituted for sixty days—72 to 63.

Mr. C. B. McLaughlin moved to reconsider the vote. Mr. Veeder moved to lay that motion on the table. Carried—68 to 44.

Mr. McClure then arraigned the Republicans for illiberality in refusing to allow aliens to be naturalized within a reasonable time.

Mr. Root said: "The motion to which Mr. McClure refers as evidence of Republican illiberality was made by one of the most distinguished Democrats in the State. It may be that the gentleman has gone too far in suggesting six months. I move that the amendment be recommitted, with instructions to amend by the insertion of ninety days." Carried—86 to 47.

Mr. Bowers moved to amend by making the period of probation ten days. Lost.

Mr. Roche moved to amend by reducing ninety days to thirty days.

Mr. Countryman said that he had come to the Convention to act independently. Latterly he had seen a disposition on both sides to practise politics. He intended to take no part in the struggle. He did not think that greater rights should be given a foreign-born citizen than an American-born. If the politicians thought that it would be to their advantage in capturing the foreign vote to shorten the period of naturalization they might do so, but he would take no part in it.

Mr. Jenks said that Mr. Countryman was a Mugwump.

Mr. Roche argued in favor of the thirty-day period.

Mr. Root said that as he had seen Mr. Roche vote to make the period of citizenship six months—

Mr. Roche—That is false—that is not so.

Mr. Root—As I have seen him this morning with my own eyes vote to extend the period of citizenship to six months—

Mr. Roche—Mr. Chairman, that is not true; I did not vote for that motion.

Mr. Root—As the vociferation of the gentleman may have made what I was trying to say inaudible, I repeat that, since I have seen the gentleman this morning vote in favor of six months' naturalization, I am not inclined to give his arguments much weight.

Mr. C. B. McLaughlin, on a question of personal privilege, said that he had voted against Mr. Countryman's motion to make the period six months, in favor of the motion to reconsider, and against the motion to lay that motion on the table. His course had been consistent.

Mr. Root said that in view of what Mr. Roche had said he would accept his statement against the evidence of his own eyes.

The motion to amend was lost by a vote of 50 to 103. The amendment was passed by a vote of 102 to 54. It reads as follows:

Section 1 of Article II. of the Constitution is hereby amended as follows:

SECTION 1. Every male citizen of the age of 21 years, who shall have been a citizen for ninety days and an inhabitant of this State one year next preceding an election and the last four months a resident of the county, and for the last thirty days a resident of the election district in which he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that are now or hereafter may be elective by the people and upon all questions which may be submitted to the vote of the people; provided, that in time of war no elector in the actual military service of the State or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the Legislature shall have power to provide for the manner, time and the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.

The vote on the above amendment was substantially a party vote.

The Convention then took up Mr. Gilbert's amendment, providing that the Legislature shall meet annually on the first Wednesday in January instead of the first Tuesday, so that caucuses would not be held on Sunday. The amendment was passed—ayes, 123; noes, 7. It reads as follows:

Section 6 of Article X. of the Constitution is hereby amended so as to read as follows:

SEC. 6. The political year and legislative term shall begin on the first day of January; and the Legislature shall, every year, assemble on the first Wednesday in January.

The amendment introduced by E. R. Brown, forbidding State and judicial officers from riding on passes, was taken up. A few verbal amendments were offered by Mr. Brown and accepted.

Mr. Cassidy moved that the acceptance of passes be made punishable by imprisonment for life. This would render the article more powerful and effective. There had been a great decadence in the morals of the State because no attempt had been made in the Constitution to reform them. No opportunity should be lost to make people honest and virtuous by legislation.

Mr. McKinstry thought the amendment ridiculous.

Mr. Bigelow thought the amendment should be more general. It practically said that State officers might be corrupted in any other way than by passes.

Mr. Kelloggg moved to amend Mr. Cassidy's motion by adding that State officers guilty of accepting passes should be obliged to walk for the remainder of their lives.

Mr. Powell thought that the dignity of the State was lowered by the mention of passes in the Constitution.

President Choate offered the following amendment:

Every railroad, transportation, telegraph, and telephone company shall annually report to the Legislature the names of all public officers, or persons elected or appointed to public office under the laws of this State, to whom it has granted any such free pass, free transportation, franking privilege or discrimination hereby prohibited.

Mr. C. B. McLaughlin said that he was in favor of this amendment, because it would kill the whole matter. If it was adopted the amendment would prohibit the granting of passes to public officers and would at the same time require transportation corporations to say to whom they had granted such passes.

Mr. Hotchkiss said that the provision would be easily evaded.

Mr. Bigelow thought that Mr. Choate's amendment should be substituted for the original measure, instead of added to it.

De Lancey Nicoll said that the analogy of the Bribery act should be followed and the offence be placed upon the public officers, where it belongs, and the companies kept as witnesses.

Mr. McKinstry said that the amendment had been introduced by a man who had been put off a train or refused a pass.

Mr. E. R. Brown denied this, and said that Mr. McKinstry had confessed to him that he could not vote for the amendment because he was a beneficiary of the roads. "This Convention," he added, "may refuse to pass this amendment, governed by a petty sense of obligation, but if it does fail it will be a notification to the people that it is dominated by the railways."

Mr. Durfee said that he had heard that public officers farmed out their passes to pay their debts.

Mr. McKinstry said he had told Mr. Brown that he did not think a man should vote for the amendment while he had a pass in his pocket, and he thought so still.

Mr. Choate combatted Mr. Nicoll's idea that it would be unwise to make the railroads report. Some penalty should be fixed for them.

Mr. Root said that the pass question was exceedingly important, and that the Convention would suffer in public estimation if it failed to pass the amendment.

Mr. Hotchkiss offered an amendment providing that the Legislature shall by law provide for the free transportation of public officers.

Mr. J. J. Green said he had not heard that the corporations were against issuing passes, or that they had gained them a single vote. It was only a matter of courtesy.

After consultation with Mr. Nicoll Mr. Choate withdrew his amendment and substituted the following:

No person or officer or agent of a corporation giving such free pass, free transportation, or franking privilege or discrimination hereby prohibited shall be prohibited from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor if he shall testify to the giving of the same.

Mr. Goodelle thought it very curious that the corporations were allowed to give passes while officials were prohibited from using them.

President Choate said that he had not had the corporations in mind when he offered the amendment. It had been his wish to make the amendment more effectual. He hoped that Mr. Goodelle would withdraw any intimation that he had sought to favor the corporations.

Mr. Goodelle said that he had had no such thought in mind, but that it had seemed to him that some penalty for the corporations should be provided.

Mr. Blake said that the whole question was buncombe.

Mr. Tekulsky offered to amend by prohibiting treating, and providing that persons treated need not confess the fact. At this point a recess was taken until 3 o'clock this afternoon.

At the Republican caucus held to-day it was decided to make no amendments to the judiciary article when it comes up on final passage.

AFTERNOON SESSION.

At the afternoon session the free pass amendment was taken up again. Mr. Nicoll offered the following:

Any corporation or officer or agent thereof who shall offer or promise to a public officer or person elected or appointed to a public office any such free pass, free transportation, franking privilege, or discrimination shall also be deemed guilty of a misdemeanor and liable to punishment, except as herein provided.

All the amendments, except those of Mr. Choate and Mr. Nicoll, were voted down, and the amendment as amended was passed by a vote of 96 to 44, as follows:

AYES—Messrs. Abbott, Acker, Ackerly, Arnold, Baker, Banks, Barnum, Barrow, Becker, E. R. Brown, Burr, Cady, Carter, Chipp, Jr., H. A. Clark, Cochran, Coleman, Cornwell, Countryman, Davenport, Deady, Dean, Dickey, Doty, Durfee, Emmett, Floyd, Foote, Francis, Fraser, C. A. Fuller, Gibney, Gregerich, Gilbert, Gilleran, Goeller, Goodelle, A. H. Green, Griswold, Hamlin, Hill, M. H. Hirschberg, Hoile, Hotchkiss, Hottenroth, I. Sam Johnson, J. Johnson, Kimmey, Lester, C. H. Lewis, Lyon, Manley, Marks, Marshall, Maybee, McArthur, McClure, McCurdy, McDonough, McIntyre, C. B. McLaughlin, Merwin, Moore, Morton, W. H. Nichols, De L. Nicoll, Nostrand, O'Brien, Ohmeis, Osborn, Parker, Parkhurst, Parmenter, Peck, Platzek, Roche, Rogers, Root, Rowley, Schumaker, Spencer, Springweiler, A. R. Steele, W. H. Steele, Storm, T. A. Sullivan, Titus, Towns, C. H. Truax, Tucker, Vogt, Wellington, Whitmyer, Williams, Woodward, and Mr. President—98.

NOES—Messrs. Bigelow, Blake, Bowers, E. A. Brown, Cassidy, Church, G. W. Clark, Crimmins, Crosby, Danforth, J. C. Davies, C. A. Davis, Deterling, Durnin, Faber, Farrell, Fitzpatrick, Frank, A. J. Fuller, Gallinger, J. J. Green, Hawley, Heaver, Hedges, A. Herzberg, Jenks, Kellogg, Kinkel, Mantayne, McKinstry, J. W. McLaughlin, McMillan, Pashley, Phipps, Powell, Porter, Powell, Putnam, Rediman, Tibbetts, Turner, Vedder, and Veeder—44.

During the roll call many delegates took occasion to express their views a second time, but no new arguments were brought forward. The amendment as passed reads as follows:

Add at the end of article 1 a new section to read as follows:

Section 20—No public officer or person elected or appointed to a public office under the laws of this State shall directly or indirectly ask, demand, accept, receive, or consent to receive, for his own use or benefit or for the use or benefit of another, any pass, free transportation, franking privilege or discrimination in passenger, telegraph, or telephone rates from any person or corporation, nor shall any such officer, either alone or in conjunction with another, a person who violates any provision of this section shall be deemed guilty of a misdemeanor, and shall forfeit his office at the suit of the Attorney-General.

Any corporation or officer or agent thereof who shall offer or promise to a public officer or person elected or appointed to a public office any such free pass, free transportation, franking privileges, or discrimination, shall also be deemed guilty of a misdemeanor, and liable to punishment, except as herein provided.

No person or officer or agent of a corporation giving such free pass, free transportation, franking privilege, or discrimination hereby prohibited, shall be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor if he shall testify to the giving of the same.

The Convention then took up the amendment introduced by Mr. McDonough, prohibiting prison labor in competition with live labor. The amendment aroused a great deal of opposition. Mr. Gilbert said that he did not think that it would effect what was expected of it.

Mr. Kerwin, an Albany labor delegate, said: "The hand of monopoly and the effect of the strong lobby which has been in this session since the beginning of the session is at last apparent." He criticised the minority for not continuing to allow the amendment to get to third reading and no further, and he criticised the majority for encouraging the amendment and then endeavoring to kill it. He hated the cowardice which had led so many delegates to leave the chambers so as to avoid voting, but the people would know next fall who had voted for and who had not.

President Choate said that he had voted against the amendment after hearing Mr. McDonough's argument and the other reasons so faithfully presented. "I have been told that by voting for this I can secure votes for other amendments. I scorn to vote for any such ground. I have been told that by voting for it I shall make votes for my party. I detest any such argument. The question of prison labor and the regulation of labor outside and inside prisons is a question of vital importance, and the hands of the Legislature should not be tied for twenty years."

As the roll call proceeded, and vote after vote unexpectedly was cast for the amendment, the excitement became intense, and the supporters and opponents of the measure made every effort to get votes for their respective sides. The amendment was passed by a vote of 91 to 51, as follows:

AYES—Messrs. Acker, Ackerly, Arnold, Barbite, Barnum, Becker, Blake, Burr, Campbell, Carter, Chipp, Jr., G. W. Clark, Coleman, Crosby, J. C. Davies, G. A. Davis, Deterling, Deyo, Dickey, Durnin, Faber, Floyd, Forbes, Frank, A. J. Fuller, C. A. Fuller, O. A. Fuller, Gallinger, Gibney, Gregerich, Gilleran, Goeller, A. H. Green, J. J. Green, Hedges, Heaver, Herzberg, Hill, M. H. Hirschberg, Hoile, Henks, I. Sam Johnson, J. Johnson, Kellogg, Kerwin, Kimmey, Kinkel, Marks, Lauterbach, Mantayne, Marshall, McArthur, McDonough, McKinstry, McMillan, Meyenborg, Moore, Morton, Nostrand, Ohmeis, Parker, Parmenter, Pashley, Phipps, Porter, Powell, Putnam, Rediman, Roche, Rogers, Root, Smith, Springweiler, Storm, T. A. Sullivan, Tekulsky, Tibbets, Titus, Towns, C. H. Truax, Tucker, Turner, Vedder, Vogt, Whitmyer, Wiggins, Williams, and Woodward—91.

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