

Amendment No 1402
October 1878

Draft for
Preamble and
Declaration of Rights

Oct 24. /8
Recd ordered
printed & referred
to Com of Whole
Thornton

Nov 9/28
as see
Considered & amended
in Com of Whole
& placed on final
Bill. Smith
as see

Present

From Committee
on Preamble & Bill of Rights

Thomas

27th day

18

Preamble

10

We, the people of the State of California, grateful to Almighty God for our freedom, in order to secure and perpetuate its blessings, do establish this Constitution.

Article I

Declaration of Rights.

Section 1 All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing, and protecting property; and pursuing and obtaining safety and happiness.

Section 2 All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right to alter or reform the same whenever the public good may require it.

Section 3

We recognize The Constitution of The United States of America as The great charter of our liberties, and The paramount law of The land.

Section 4

The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State; and no person shall be rendered incompetent to be a witness or juror, on account of his opinions on matters of religious belief; but The liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with The peace or safety of this State.

Section 5

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion The public safety may require its suspension.

Section 6

All persons shall be bailable by sufficient sureties, unless for capital offenses when The proof is evident or The presumption great. Excessive

12
9-a

bail shall not be required, nor excessive fines imposed; nor shall cruel or unusual punishments be inflicted; nor shall witnesses be unreasonably detained, or confined in any jail or room where criminals are usually imprisoned.

Section 7 In criminal cases the right of Trial by jury shall remain. In all cases, except felony, the Legislature may provide by law the number necessary to constitute a jury, and in all civil cases the number necessary to render a verdict.

Section 8 No person shall be held to answer for a crime, or other public offenses punishable by death, or imprisonment in the State Prison, (except in cases of impeachment, and in cases of militia when in actual service, and in the land or naval forces in time of war, or which this State may keep, with the consent of Congress, in time of peace.) unless on presentment or indictment of a Grand Jury. In all other cases offenses shall be prosecuted by indictment.

19
4-a

information, accusation, or complaint, as concurrent remedies, as may be prescribed by law.

A Grand Jury shall consist of not less than fifteen, not more than eighteen persons, two thirds of whom may find an indictment or true bill. The Legislature, by a two-thirds vote of all the members elected to each House, may abolish and restore the Grand Jury system.

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Section 9

Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions on indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

Section 10 The people shall have the right to freely assemble together, to consult for the common good, to instruct their Representatives, and to petition the Legislature for redress of grievances.

Section 11 All laws of a general nature shall have a uniform operation.

Section 12 The military shall be subordinate to the civil power. No standing army shall be kept up by this State in time of peace, and no soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war except in the manner to be prescribed by law.

Section 13 In criminal prosecutions in any court whatever, the party accused shall have the right to a speedy and public trial; to appear and defend in person and with counsel, to demand the nature and cause of the accusation, and to have a copy thereof, to meet the witnesses face to face, and to have process to compel the attendance of witnesses.

in his behalf. No person, after having been once acquitted by a jury or discharged by the Court, shall again be put in jeopardy for the same offense; nor shall he be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty or property without due process of law.

Art

Section 14

Private property shall not be taken or damaged for public use without just compensation having been made to, or paid into court for the owner, except in cases of war, riot, fire or great public peril, in which cases compensation shall afterwards be made; such compensation or damages to be assessed by a jury unless waived by the parties; nor shall the time or services of any person, except when held or under arrest for crime, be taken without just compensation to be fixed and provided by law.

Section 15

No person shall be imprisoned for debt in any civil action, on

measure or final process, unless in cases of fraud; and no person shall be imprisoned for a militia fine in time of peace

Section 16 No bill of attainder, ex post facto law, or law impairing the obligation of contracts, or the remedy for the enforcement or breach thereof, shall ever be passed

Section 17 Foreigners, eligible to become citizens of the United States under the naturalization laws thereof while bona-fide residents of this State, shall have the same rights in respect to the possession, enjoyment and inheritance of property as native born citizens

Section 18 No form of slavery shall ever exist in this State, and there shall be no involuntary servitude, unless for the punishment of crime of which the party shall have been duly convicted

Section 19 The right of the people to be secure in their persons, houses,

papers and effects, against unreasonable seizures and searches shall not be violated; and no warrant shall issue, but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons and things to be seized.

Section

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Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid or comfort. No person shall be convicted of treason, unless on the evidence of two witnesses to the same overt act, or confession in open court.

Section 21

No special privileges or immunities shall ever be granted, which may not be altered, revoked, or repealed by the Legislature; nor shall any citizen or class of citizens be granted privileges or immunities, which, upon the same terms, shall not be granted to all citizens.

Section 22 No money shall ever be appropriated or drawn from the State Treasury for the use or benefit of any corporation, association, asylum, hospital, or any other institution, not under the exclusive management and control of the State; nor shall any grant or donation of property ever be made thereto by the State.

Section 23. The provisions of this Constitution are mandatory and prohibitory, unless by express words, it is declared to be otherwise.

Section 24 This enumeration of rights shall not be construed to impair or deny others retained by the people.

Report of the
Committee on Ju-
diciary and Juds
Department on
Resolution No 65
as to the effect of
the US Constitution
on jury trials in
State Courts

To the President of
the Constitutional Convention.

Your Committee on the Judiciary
and Judicial Department to whom
was referred Resolution No 65
instructing this Committee to enquire
and report ~~its~~ opinion as to whether
the provisions of the Constitution of
the United States relating to trials
by jury, apply to State Courts
and the administration of the laws
of the State, beg leave to report
that the same has been duly con-
sidered and that in the opinion
of the Committee the provisions
of the Constitution of the United
States relating to trials by jury
do not apply to the State Courts
nor to the administration of the
laws of the State in those Courts.

Nov 5 1898.

Respectfully submitted

S. W. Wilson
Chairman.

Additional Report
Minority of Com-
mittee on Preamble
& Bill of Rights

Oct 24. 48
Read & ordered
Printed with the
Majority Report of
the Com on Preamble
& Bill of Rights
Thomson
ass Rec

Mr. President and Gentlemen of the Convention:
We the undersigned minority of your
Committee on Preamble and Bill of Rights
beg leave to report the following two ad-
ditional sections for insertion in the Bill
of Rights of the new Constitution.

Sec -

No property qualification shall ever be
required for any person to vote, hold office,
or become a juror.

Sec -

The penalty for all crimes except petty mis-
demeanors shall be imprisonment which shall
be proportioned to the character and degree of the
offense.

Richard Trend
James W. Barton
Chas H Ringgold
A. E. Noel

October 1878

Report from Committee
on Preamble & Bill of Rights

Submitting draft for
Preamble and Article
one. New Constitution

Oct 24 78

Recd. ordered
printed & referred
to Com of Whole

Thomson

as see

(1)

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Mr President

The Committee on Preamble and Bill of Rights, beg leave to report, that they have had under consideration, for a number of sessions, the subject matter referred to them, and having agreed upon a draft for a Preamble and Declaration of Rights, submit the same herewith, to the Convention, for its consideration.

At the outset of their deliberations the Committee adopted the plan to take up, in their order, the Preamble and different sections of Article one of the present Constitution, and consider the same as a basis for their action, with the understanding that only such provisions should be altered or amended as the public interest seemed to demand.

Acting upon this plan the Committee first informally considered and acted upon the old Preamble and separate sections of Article one, severally, in connection with the various propositions bearing thereon, which have from time to time been referred to us by the Convention.

Afterwards the Committee went over the work again, in the same manner, for final action.

Preamble

It being the opinion of the Committee that the substance and general style of the present Preamble should be preserved, they have reported the same, with only slight verbal amendment, as the Preamble for the new Constitution. It expresses, in brief and appropriate language, the people's gratitude to the Supreme Being for their freedom, and their desire and determination to secure and perpetuate its blessings, by the establishment of a constitutional government. This is all that seems to be required, without loading it down with unnecessary recitals.

Declaration of Rights

Sections
1 & 2

Sections one and two of Article one have been retained with the same numbers, in the new Article, without any alteration. The former declares the inalienable rights of man, and the latter, the

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object and purposes of government, in a manner and style that cannot well be improved.

Section 3. Section three of the old Article, relating to the right of trial by jury, has been materially changed. There were a large number of propositions referred to the Committee, having in view some modification of the jury system, and after giving them due consideration, and devoting considerable time to the subject, the Committee agreed upon the section, as reported, which has been inserted in the place of the old section seven, immediately preceding the section relating to the Grand Jury, and numbered accordingly. As Section three of the Article here reported, the Committee have adopted a new section which recognizes the Constitution of the United States as the paramount law of the land.

Section 4. Section four in reference to the free exercise of and enjoyment of religious profession and worship, has been retained, with the insertion of the words, "or jurors" after,

the word "witness" in the sentence, "and no person shall be rendered incompetent as a witness on account of his opinion on matters of religious belief"

A number of memorials, quite numerously signed, having in view, some modification of, or addition to what is contained in section four, have been referred to us. — a representative of the clergy also favored the Committee with a brief statement of the reasons assigned by a large class of our people for desiring such changes. But after giving to the subject matter all the consideration its importance demanded, the Committee, with all deference to the memorialists, still remain of the opinion, that it would be unwise to materially change, alter, ^{or} add to the section, as it stands in the old Constitution

Section 5. Section five, relating to the writ of habeas corpus, remains as in the original Articles

Sections 6 & 7. Sections six and seven, in addition to the declaration in the former,

against excessive fines, cruel and unusual punishments, and the unnecessary detention of witnesses, bear upon the same subject, namely, the matter of bail. The Committee therefore have transposed and consolidated these sections, and have added by way of amendment to the clause relating to detaining witnesses, a prohibition against confining them in jails or rooms where criminals are usually imprisoned. At present it not infrequently happens, that a stranger or poor person, so unfortunate as to witness the commission of a crime, for want of bail, is confined in some noisome prison-cell, while the criminal, more blessed in the possession of friends or property, goes at large, on bail.

Section 7

For section seven, as already stated, we have inserted the old section three as amended. As thus amended, the right of a jury in criminal trials is still retained, but in cases not amounting to felony the Legislature may fix the number to constitute such jury.

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and in all civil cases the whole matter is left to be provided by law.

Section 8

Section eight has been divided so as to form, with the amendments proposed, three sections. The portion relating to the Grand Jury forms the eighth section of the new Article. As amended, it provides for a Grand Jury in cases punishable by death, or imprisonment in the State Prison, with the usual exceptions, and in other criminal cases permits a prosecution by information or complaint, as may be prescribed by law. It also provides that while the Grand Jury is retained, two thirds may find a true bill, thereby making it more difficult to defeat action against influential parties, than under the old system. Power is also conferred upon the Legislature, by a two thirds vote of all the members elected to each House, to abolish and restore again the whole Grand Jury system. In regard to the Grand Jury system as well as the trial jury, the action of the Committee may not have been as

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radical, as the public sentiment demands, judging from the various propositions before them bearing upon the subject: but, if so, there is a degree of elasticity in the new system, which the old did not possess, and the Legislature, guided by experience, will be enabled to meet the wants of the people in this respect.

Section 9. Section Nine, declaring the right of freedom of speech and of the press, and prescribing a rule in criminal prosecutions for libel, has been retained as it existed in the old Article.

Section 10. Section ten, declaring the right of the people freely to assemble together, to consult for the common good &c., has also been retained.

The Committee after duly considering the subject matter of the two foregoing sections, came to the conclusion that it would be unwise to propose amendments to them or to tamper with them in any respect. Their provisions have been construed and are well understood, and it is hazardous to make experiments

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in such matters.

Section 11 Section eleven, declaring that all laws of a general nature shall have a uniform operation is retained

Section 12 Section twelve, providing that the military shall be subordinate to the civil power, etc. has been amended by striking out the last clause, which limits an appropriation for army purposes, as that matter is covered by section twentytwo of the present Article, added by way of amendment in 1866-1871; and the latter section has also been left out of our draft, on the ground that it belongs more properly to the Legislative Article. To section twelve as thus amended, we have added section thirteen of the old Article, as it bears upon the same matter of restricting the military powers

Section 13 Section thirteen has been provided for by inserting, in the place of the old section, already disposed of, that portion of the old section eight in regard to the right of the accused in a criminal trial, and has been amended. The amend-

ment consists in adding certain other usually enumerated rights, mostly taken from Article six of the ^{Amendments} Constitution of the United States, and which seem to have been omitted from that portion of the old section Eight. We have also altered the clause in regard to putting a person twice in jeopardy, so as to remove any doubt, in case a jury, on the trial, should for any reason be discharged without rendering a verdict.

Section 14

The Committee struck out the old section of this number relating to apportionment, as it more properly belongs to the Committee on Apportionment and Representation. The Committee have constructed a new section on the subject matter of the last clause in the old section Eight, - that is, taking private property for public uses. In the section as reported in our draft for section fourteen ~~in our draft~~ it is provided that the time or services of the citizens when required for the public, shall also be compensated in a manner to be provided by law. It may be that the labor of

an individual is his only capital or means of support, and when his time or services shall be required for the public benefit, there appears to be no reason why compensation should not be made the same as when private property is taken.

Section 15 Section fifteen, prohibits imprisonment for debt, except in cases of fraud, and prohibits imprisonment for a militia fine. It has been retained in its place without alteration.

Section 16 Section sixteen, declaring against ex post facto laws, and laws impairing the obligation of contracts, has been so amended as to prevent impairing the remedy for the enforcement or breach of a contract.

Section 17 Section seventeen, in regard to the right of foreign residents to possess, enjoy, and inherit property, has been amended so as to exclude from its provisions foreigners not eligible to become citizens.

Section 18 Section eighteen, prohibiting slavery and involuntary servitude, has been so amended as to read: "No form of slavery shall ever exist in this State, and there shall be no

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involuntary servitude, except for the punishment of crime of which the party shall have been duly convicted."

Section 19

Section Nineteen, relative to the right of the people to be secure from unreasonable seizures and searches, is retained without amendment.

Section 20

Section twenty, in regard to Treason, and the rights of a person on trial charged with the same, remains intact.

Section 21

Section twenty-one, declaring that this enumeration of rights, shall not be construed to impair, or deny others retained by the people, was the last section of the original Article, and we have retained it as the last in our draft, and changed the number accordingly. In its place as section twenty-one, we have inserted a new section, declaring against special privileges and immunities. Several propositions were referred to us, bearing upon this subject and many of the Constitutions of other States contain similar provisions.

Section 22

The present section of this number, added by amendment, as already stated, has been dropped from our draft, as properly belonging to another Article. The Committee have prepared a new section to take ^{the} place of twenty-two, declaring against appropriations or grants to any corporation, association, asylum, hospital, or any other institution, not under the exclusive management and control of the State. Judging from the various propositions on this subject there would seem to be a public demand for some provision of this kind, in order to prevent the funds and property of the State from being diverted and used for other than public purposes.

Section 23

Section twenty-three is a new section in which it is declared that the provisions of the new Constitution, unless when declared to be otherwise, shall be mandatory and prohibitory. The purpose of this is that where plain language is used in the Constitution, declaring what shall be done and what shall not be done, it must not

be construed, in convenient cases, to be merely directory. This section has also been presented in deference to what seems to be a public demand for something of the kind.

Section 24

Section twenty-four, This is the last section in the new Article, and, as already stated, is the same as the twenty first, or last section, in the original Article.

Several other new sections were proposed before the Committee but failed of adoption; some for the reason that they were considered unnecessary or inappropriate, and others for the reason simply, that they more properly belonged to some other department.

Herewith the Committee returns to the Convention, various memorials and propositions bearing upon the matters under consideration, up to this time, referred to them, and would recommend that so much of any or all the provisions contained therein, as may not be embodied in the draft herewith submitted, be not adopted. All of which is respectfully submitted.

Walter V. Dyke
Chairman

October 1878

~~Preamble and Bill of Rights
Report from Committee~~

~~Submits draft for
Article one new
Constitution~~

Substitute for Sec. 3.

That this State shall ever remain a member of the American Union that the people thereof are a part of the American Nation. That there is no right on the part of this State to secede and that all attempts from whatever source or upon whatever pretext to dissolve said Union or sever said Nation ^{shall} ~~ought~~ to be resisted by the whole power of the State.

By Estee.

Adopted in Com. of the Whole.

INTRODUCED BY COMMITTEE ON PREAMBLE AND BILL OF RIGHTS.

OCTOBER 24TH, 1878.

RECEIVED, ORDERED PRINTED, AND REFERRED TO COMMITTEE OF THE WHOLE.

DRAFT FOR PREAMBLE AND DECLARATION OF RIGHTS.

PREAMBLE:

We, the People of the State of California, grateful to Almighty God
2 for our freedom, in order to secure and perpetuate its blessings, do establish
3 this Constitution.

ARTICLE I.

DECLARATION OF RIGHTS.

SECTION 1. All men are by nature free and independent, and have
2 certain inalienable rights, among which are those of enjoying and defend-
3 ing life and liberty; acquiring, possessing, and protecting property; and pur-
4 suing and obtaining safety and happiness.

SEC. 2. All political power is inherent in the people. Government is
2 instituted for the protection, security, and benefit of the people, and they have
3 the right to alter or reform the same whenever the public good may require it.

SEC. 3. We recognize the Constitution of the United States of
2 America as the great charter of our liberties, and the ^{supreme} paramount law of ^{Cole's} substitute
3 the land. *substitute by Estu adopted.* *adopted*

Read

Read

Read

SEC. 4. The free exercise and enjoyment of religious profession and
2 worship, without discrimination or preference, shall forever be allowed in this
3 State; and no person shall be rendered incompetent to be a witness or juror
4 on account of his opinions on matters of religious belief; but the liberty of
5 conscience hereby secured shall not be so construed as to excuse acts of licen-
6 tiousness.

Amendment - Sec 6 -
By Campbell

Amend sec 4 by striking out all after
'inflicted' and substituting therefor
'But nothing herein contained shall
be construed to prohibit the infliction
of corporal punishment for crime.'
Witnesses shall not be unreasonably
detained; or confined in any jail or
room where criminals are usually
imprisoned'

2 all cases, except felony, the Legislature may provide by law the number nec-
3 essary to constitute a jury, and in all civil cases the number necessary to
4 render a verdict.

SEC. 8. No person shall be held to answer for a crime, or other public
2 offense, punishable by death or imprisonment in the State Prison (except in
3 cases of impeachment, and in cases of militia when in actual service, and in
4 the land or naval forces in time of war, or which this State may keep with
5 the consent of Congress in time of peace), unless on presentment or indict-
6 ment of a grand jury. In all other cases, offenses shall be prosecuted by

Refer to
Judiciary
Committee

SEC. 4. The free exercise and enjoyment of religious profession and
2 worship, without discrimination or preference, shall forever be allowed in this
3 State; and no person shall be rendered incompetent to be a witness or juror
4 on account of his opinions on matters of religious belief; but the liberty of
5 conscience hereby secured shall not be so construed as to excuse acts of licen-
6 tiousness, or justify practices inconsistent with the peace or safety of this
7 State.

SEC. 5. The privilege of the writ of habeas corpus shall not be sus-
2 pended unless when, in cases of rebellion or invasion, the public safety may
3 require its suspension.

SEC. 6. All persons shall be bailable by sufficient sureties, unless for
2 capital offenses when the proof is evident or the presumption great. Exces-
3 sive bail shall not be required, nor excessive fines imposed; nor shall cruel
4 or unusual punishments be inflicted; ~~nor shall witnesses be unreasonably~~
5 ~~detained, or confined in any jail or room where criminals are usually impris-~~
6 ~~oned.~~ Amended by Judge Campbell.

SEC. 7. In criminal cases the right of trial by jury shall remain. In
2 all cases, except felony, the Legislature may provide by law the number nec-
3 essary to constitute a jury, and in all civil cases the number necessary to
4 render a verdict.

SEC. 8. No person shall be held to answer for a crime, or other public
2 offense, punishable by death or imprisonment in the State Prison (except in
3 cases of impeachment, and in cases of militia when in actual service, and in
4 the land or naval forces in time of war, or which this State may keep with
5 the consent of Congress in time of peace), unless on presentment or indict-
6 ment of a grand jury. In all other cases, offenses shall be prosecuted by

Amended to
Judiciary
Committee

to Judiciary
Committee

Sec. 8

Amend sec 8 by inserting after the word
or in line 2 the word "by" and after the word
information "After commitment on exami-
nation by a magistrate so that the
section will read

"Offenses heretofore required to be
prosecuted by indictment shall be
prosecuted by indictment or by infor-
mation after commitment on examination
by a magistrate; as may be prescribed
by law; but a grand jury shall be drawn
and summoned at least once a year
in each County."

Adopted.
Campbell.

7 indictment, information, accusation, or complaint, as concurrent remedies, as
8 may be prescribed by law. A grand jury shall consist of not less than fifteen
9 nor more than eighteen persons, two-thirds of whom may find an indictment
10 or true bill. The Legislature, by a two-thirds vote of all the members elected
11 to each House, may abolish and restore the grand jury system.

SEC. 9. Every citizen may freely speak, write, and publish his senti-
2 ments on all subjects, being responsible for the abuse of that right; and no
3 law shall be passed to restrain or abridge the liberty of speech or of the press.
4 In all criminal prosecutions on indictments for libels, the truth may be given
5 in evidence to the jury; and if it shall appear to the jury that the matter
6 charged as libelous is true, and was published with good motives and for
7 justifiable ends, the party shall be acquitted; and the jury shall have the right
8 to determine the law and the fact.

SEC. 10. The people shall have the right to freely assemble together
2 to consult for the common good, to instruct their Representatives, and to peti-
3 tion the Legislature for redress of grievances.

SEC. 11. All laws of a general nature shall have a uniform operation.

SEC. 12. The military shall be subordinate to the civil power. No
2 standing army shall be kept up by this State in time of peace, and no soldier
3 shall, in time of peace, be quartered in any house without the consent of the
4 owner; nor in time of war, except in the manner to be prescribed by law.

SEC. 13. In criminal prosecutions in any Court whatever, the party
2 accused shall have the right to a speedy and public trial; to appear and
3 defend, in person and with counsel; to demand the nature and cause of the
4 accusation, and to have a copy thereof; to meet the witnesses face to face, and

alter

*Referenced
Indictment*

*Referenced
Indictment
Case*

5 to have process to compel the attendance of witnesses in his behalf. No per-
6 son, after having been once acquitted by a jury, or discharged by the Court,
7 shall again be put in jeopardy for the same offense; nor shall he be compelled,
8 in any criminal case, to be a witness against himself, nor be deprived of life,
9 liberty, or property, without due process of law.

Refer

Amend
7/20

By
J. J. [unclear]

Every
publ
a

Amend section 18 - as follows -
Armed slaying ^{not} involuntary
or suicide, unless for the purpose
of a crime, shall be
punished in this state.

Adopted

Edgerton

5 to have process to compel the attendance of witnesses in his behalf. No per-
6 son, after having been once acquitted by a jury, or discharged by the Court,
7 shall again be put in jeopardy for the same offense; nor shall he be compelled,
8 in any criminal case, to be a witness against himself, nor be deprived of life,
9 liberty, or property, without due process of law.

SEC. 14. Private property shall not be taken or damaged for public
2 use, without just compensation having been made to or paid into Court for
3 the owner, except in cases of war, riot, fire, or great public peril; in which
4 cases compensation shall afterwards be made; such compensation or damages
5 to be assessed by a jury, unless waived by the parties; nor shall the time or
6 service of any person, except when held or under arrest for crime, be taken
7 without just compensation to be fixed and provided by law.

*Refer to
Judgment
in Case*

SEC. 15. No person shall be imprisoned for debt in any civil action,
2 on mesne or final process, unless in cases of fraud; and no person shall be
3 imprisoned for a militia fine in time of peace.

SEC. 16. No bill of attainder, ex post facto law, or law impairing the
2 obligation of contracts, ~~or the remedy for the enforcement or breach thereof,~~
3 shall ever be passed.

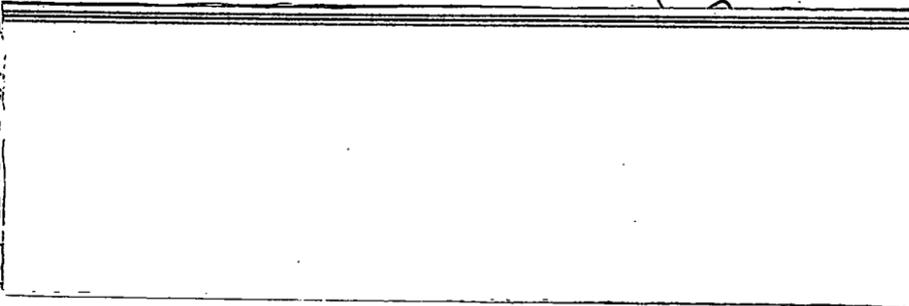
*Amended
by word*

SEC. 17. Foreigners eligible to become citizens of the United States
2 under the naturalization laws thereof, while bona fide residents of this State,
3 shall have the same rights in respect to the possession, enjoyment, and inheri-
4 tance of property as native born-citizens.

*By
J. Van Dyke
Chairman*

SEC. 18. No form of slavery shall ever exist in this State, and there
2 shall be no involun
the party shall hav

*Exemption
subordinate
adopted*



REPORT

OF THE

COMMITTEE ON JUDICIARY AND JUDICIAL DEPARTMENT

TO THE

CONSTITUTIONAL CONVENTION.

(14th day)

Copy used in case of whole

REPORT.

MR. PRESIDENT: Your Committee on Judiciary and Judicial Department, to whom were referred sections seven (7), eight (8), nine (9), thirteen (13), and fourteen (14), of Amendment No. 402, reported by the Committee on Preamble and Bill of Rights, beg leave to report that they have had the same under consideration, and recommend that they be not adopted, but that the sections hereunto annexed be adopted in lieu thereof.

S. M. WILSON, Chairman.

November 1st, 1878.

SECTION 7. The right of trial by jury shall be secured to all, and remain inviolate; but in civil actions, and in cases of misdemeanor where the punishment does not exceed six months imprisonment or a fine of five hundred dollars, or both, three-fourths of the jury may render a verdict. A trial by jury may be waived in all criminal cases not amounting to felony, by the consent of both parties, in open Court expressed, and in civil cases by the consent of the parties, signified in such manner as may be prescribed by law. In civil cases, and cases of misdemeanor, the jury may consist of any number, less than twelve, that the parties may agree upon in open Court.

SEC. 8. Offenses heretofore required to be prosecuted by indictment, shall be prosecuted by indictment or information, as may be prescribed by law; but a grand jury shall be drawn and summoned at least once a year in each county.

SEC. 9. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions for libels the truth may be given in evidence to the jury, and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; ~~and the jury shall have the right to determine the law and the fact.~~

SEC. 13. In criminal prosecutions, in any Court whatever, the party accused shall have a right to a speedy and public trial, and to appear and defend in person and with counsel. No person shall be subject to be twice put in jeopardy for the same offense; nor shall he be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law.

SEC. 14. Private property shall not be taken for public use without just compensation having been first made to, or paid into Court for, the owner.

Amended by Sawcitt
Amended by Solano

Amended by Dudley of Solano.

Sec. 9.

Amend Sec 9 as follows:

Strike out the words —
"And the jury shall have
the right to determine
the law and the fact",
from last two lines, and
insert the following:
"and the jury shall have
the right to find a
general verdict as in
other criminal cases".

Lawett. Adopted.

Amend. #402, Draft for Preamble and Declaration of
Rights, Intro by Comm. on Preamble and Bill of Rights
10-24-1878 Comm of Whole amendment to Sect. 9

Add to Sec. 9.

Add to sec 9 the words, Indictments
found or informations, ^{charges} for publications in
newspapers shall be tried in the County
where such newspaper have their
publication ⁽²⁾ office, ⁽²⁾ unless the place of
trial shall be changed for good cause.

By Campbell

adopted

Amend. #402, Draft for Preamble and Declaration of Rights, Intro. by Committee
on Preamble and Bill of Rights 10.24.1878. Comm. of whole amendment to Sect. 9.

(2)

Sec 9

Or in the County where the party
alleged to be libeled resided at the
time of the alleged publication

Shafter

adopted

Amend[#] 402, Draft for Preamble and Declaration of Rights, Intro by Committee
on Preamble and Bill of Rights 10-24-1878. Form of whole amendment to Sect. 9

Sec 14.

Amend section "14 by adding the following viz

"And no right-of way shall be appropriated to the use of any ^{other than municipal} Corporation until full compensation therefor be first made in money or ^{ascertained and paid} ~~of money~~ ^{into court} ~~or~~ to the owner irrespective of any benefit from any improvement proposed by such Corporation, which compensation shall be ascertained by a jury, in a court of record, as shall be prescribed by law.

Adopted.

Dudley of Solano

Institute for Sec 13 Bill of rights

In criminal prosecutions, in any court
whatever, the party accused shall have the
right to a speedy and public trial to have
the process of the court to compel the attendance of
witnesses in his behalf and to appear and
defend in person ^{and by} counsel. No person shall
~~be~~ subject to be twice put in jeopardy for
the same offense nor shall he be compelled in
any criminal case to be a witness against
himself; nor be deprived of life liberty or
property without due process of law

Herrington

Sec 13
add
amendment

~~Nothing herein contained -~~
The Legislature shall have power
to provide for the taking & using
of depositions of witnesses ^{in criminal cases} when
there is reason to believe that from
any cause the witness will not
attend at the trial or may be
unable to do so. ~~Nothing herein~~
~~contained shall be construed to affect~~
~~the admissibility of dying declarations.~~

Campbell
adopted

Dec 13

Substitute for Sec 8 Bill of rights

In criminal prosecutions, in any court
whenever, the party accused shall have the
right to a speedy and public trial. to have
the process of the court to compel the attendance of
witnesses in his behalf and to appear and
defend in person ~~or by~~ ^{and by} counsel. No person shall
~~be subject to be twice put in jeopardy for~~
the same offense nor ~~shall~~ be compelled in
any criminal case to be a witness against
himself; nor be deprived of life liberty or
property without due process of law

Herrington

adopted

any cause ~~no witness~~
attend at the trial or may be
unable to do so ~~and the~~
~~contained shall be construed to affect~~
the admissibility of dying declarations,

Campbell
adopted

SEC. 19. The right of the people to be secure in their persons, houses,
2 papers, and effects, against unreasonable seizures and searches, shall not be
3 violated; and no warrant shall issue, but on probable cause, supported by oath
4 or affirmation, particularly describing the place to be searched and the persons
5 and things to be seized.

SEC. 20. Treason against the State shall consist only in levying war
2 against it, adhering to its enemies, or giving them aid or comfort. No person
3 shall be convicted of treason unless on the evidence of two witnesses to the
4 same overt act, or confession in open Court.

SEC. 21. No special privileges or immunities shall ever be granted
2 which may not be altered, revoked, or repealed by the Legislature; nor shall
3 any citizen, or class of citizens, be granted privileges or immunities which,
4 upon the same terms, shall not be granted to all citizens.

SEC. 22. No money shall ever be appropriated or drawn from the
2 State treasury for the use or benefit of any corporation, association, asylum,
3 hospital, or any other institution, not under the exclusive management and
4 control of the State; nor shall any grant or donation of property ever be
5 made thereto by the State.

*van Dyke
Struck
Out*

SEC. 23. The provisions of this Constitution are mandatory and pro-
2 hibitory, unless by express words ^{they are} ~~are~~ declared to be otherwise.

SEC. 24. This enumeration of rights shall not be construed to impair
2 or deny others retained by the people.

1.5.34

Orange
Blue Polka Dot

Journal

Amendment.

No. 402.

INTRODUCED BY COMMITTEE ON PREAMBLE AND BILL OF RIGHTS, WITH
AMENDMENTS ADOPTED IN ~~COMMITTEE OF THE WHOLE.~~

*Convention and passed
to engrossment and second Reading*

DRAFT FOR PREAMBLE AND DECLARATION OF RIGHTS.

PREAMBLE.

We, the People of the State of California, grateful to Almighty God
2 for our freedom, in order to secure and perpetuate its blessings, do establish
3 this Constitution.

ARTICLE I.

DECLARATION OF RIGHTS.

SECTION 1. All men are by nature free and independent, and have
2 certain inalienable rights, among which are those of enjoying and defending
3 life and liberty; acquiring, possessing, and protecting property; and pursuing
4 and obtaining safety and happiness.

*Adopted
8/5/49*

SEC. 2. All political power is inherent in the people. Government is
2 instituted for the protection, security, and benefit of the people, and they have
3 the right to alter or reform the same whenever the public good may require it.

*adopted
8/27/1788*

*adopted
8/26*

SEC. 3. We recognize the Constitution of the United States of
2 America as the great charter of our liberties, and the paramount law of the
3 land.

superseded by McCallum amendment to the am- offered below

*Amend Section 3 by
striking out all after
the word figure 3,
and inserting as follows:*

*The Constitution of the
United States is the Supreme
Law of the Nation,
and*

McCallum

*adopted 10/1-17
1820*

adopted

2 SEC. 2. All political power is inherent in the people. Government is
3 instituted for the protection, security, and benefit of the people, and they have
the right to alter or reform the same whenever the public good may require it.

*Amended
9/1/1880*

2 SEC. 3. We recognize the Constitution of the United States of
3 America as the great charter of our liberties, and the paramount law of the
land.

*Amended
64, 26*

Superseded by McCullum Amendment to the Am-Office below

2 [SEC. 3. That this State shall ever remain a member of the American
3 Union; that the people thereof are a part of the American nation; that there
4 is no right on the part of this State to secede, and that all attempts, from
5 whatever source or upon whatever pretext, to dissolve said Union, or sever
said nation, shall be resisted by the whole power of the State.]

*The above was
was rescinded
by a vote of 65-1853
Substituted
by McCullum
Amendment*

Amendment to Section four;

Strike out the word "allowed"
in the second line, between the words
"be" and "in", and insert the word
"guaranteed" in lieu thereof

advised

O'Sullivan

SEC. 6. All persons shall be bailable by sufficient sureties, unless for
2 capital offenses when the proof is evident or the presumption great. Exces-
3 sive bail shall not be required, nor excessive fines imposed; nor shall cruel
4 or unusual punishments be inflicted; nor shall witnesses be unreasonably
5 detained, or confined in any jail or room where criminals are usually impris-
6 oned.

SEC. 4. The free exercise and enjoyment of religious profession and

2. worship; without discrimination or preference, shall forever be ^{Guaranteed} allowed in this
3 State; and no person shall be rendered incompetent to be a witness or juror
4 on account of his opinions on matters of religious belief; but the liberty of
5 conscience hereby secured shall not be so construed as to excuse acts of licen-
6 tiousness, or justify practices inconsistent with the peace or safety of this
7 State.

SEC. 5. The privilege of the writ of habeas corpus shall not be sus-

2. pended unless when, in cases of rebellion or invasion, the public safety may
3 require its suspension.

SEC. 6. All persons shall be bailable by sufficient sureties, unless for

2 capital offenses when the proof is evident or the presumption great. Exces-
3 sive bail shall not be required, nor excessive fines imposed; nor shall cruel
4 or unusual punishments be inflicted; nor shall witnesses be unreasonably
5 detained, or confined in any jail or room where criminals are usually impris-
6 oned.

Adm 3
84

collected
92

Amend Section 6 by striking
out the words "fulcr" in 6 line
as amended in Committee
of the whole

aged ^{was} 50-34 adopted Lewis

refuge
mild
was

See 7 as reported
Amend ~~amendment~~ ~~of~~ ~~set~~ as follows
Strike out all after word "action"
in line 2 down to end including the
word "both" in line 4.

aged ^{adopted} 52-57 Herrington

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civil

I move to strike out in lines
and 5- the words. "But nothing
herein contained shall be construed
to prohibit the infliction of corporal
punishment for crime"

Adopted

Ayes none
59-33

Murphy

inferred
mild
was a small

~~Sec. 7. In criminal cases the right of trial by jury shall remain. In
2 all cases, except felony, the Legislature may provide by law the number
3 necessary to constitute a jury, and in all civil cases the number necessary to
4 render a verdict.~~

Sec 7 as reported
Amend ~~as reported~~ as follows
Strike out all after word "actions"
in line 2 down to and including the
word "both" in line 4.

Adopted

Ayes none
52 57

Herrington

ain
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ury
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t of
civil

[SEC. 6. All persons shall be bailable by sufficient sureties, unless for
 2 capital offenses when the proof is evident or the presumption great. Exces-
 3 sive bail shall not be required, nor excessive fines imposed; nor shall cruel
 4 or unusual punishments be inflicted. ~~But nothing herein contained shall be~~
 5 ~~construed to prohibit the infliction of corporal punishment for crime.~~ Wit-
 6 nesses shall not be unreasonably detained, or confined in any jail or room
 7 where criminals are actually imprisoned.]

Manly

Amel

*Added Apr 86
Nov 9*

~~SEC. 7. In criminal cases the right of trial by jury shall remain. In
 2 all cases, except felony, the Legislature may provide by law the number
 3 necessary to constitute a jury, and in all civil cases the number necessary to
 4 render a verdict.~~

[SEC. 7. The right of trial by jury shall be secured to all, and remain
 2 inviolate; but in civil actions, ~~and in cases of misdemeanor where the punish-~~
 3 ~~ment does not exceed six months imprisonment or a fine of five hundred dol-~~
 4 ~~lars, or both,~~ three-fourths of the jury may render a verdict. A trial by jury
 5 may be waived in all criminal cases not amounting to felony, by the consent
 6 of both parties, in open Court expressed, and in civil cases by the consent of
 7 the parties, signified in such manner as may be prescribed by law.) In civil

8 cases, and cases of misdemeanor, the jury may consist of any number, less
9 than twelve, that the parties may agree upon in open Court.]

*Adopted
Nov 93*

SEC. 8. No person shall be held to answer for a crime, or other public
2 offense, punishable by death or imprisonment in the State Prison (except in
3 cases of impeachment, and in cases of militia when in actual service, and in
4 the land or naval forces in time of war, or which this State may keep with
5 the consent of Congress in time of peace), unless on presentment or indict-
6 ment of a grand jury. In all other cases, offenses shall be prosecuted by
7 indictment, information, accusation, or complaint, as concurrent remedies, as
8 may be prescribed by law. A grand jury shall consist of not less than fifteen
9 nor more than eighteen persons, two-thirds of whom may find an indictment
10 or true bill. The Legislature, by a two-thirds vote of all the members elected
11 to each House, may abolish and restore the grand jury system.

*Repealed
Nov 22
1878*

[SEC. 8. Offenses heretofore required to be prosecuted by indictment,
2 shall be prosecuted by indictment or by information, after commitment and
3 examination by a Magistrate, as may be prescribed by law; but a grand jury
4 shall be drawn and summoned, at least once a year, in each county.]

*Adopted
Nov 93*

SEC. 9. Every citizen may freely speak, write, and publish his senti-
 2 ments on all subjects, being responsible for the abuse of that right; and no
 3 law shall be passed to restrain or abridge the liberty of speech or of the press.
 4 In all criminal prosecutions on indictments for libels, the truth may be given
 5 in evidence to the jury; and if it shall appear to the jury that the matter
 6 charged as libelous is true, and was published with good motives and for
 7 justifiable ends, the party shall be acquitted; and the jury shall have the right
 8 to determine the law and the fact.

Amend Sec 9 by striking out in lines
 4 and 8, "and" "the jury shall have the
 right to find a general verdict, as in other
 criminal cases," and insert:
 "and" "the jury shall have the right
 to determine the law and the fact."
 Adopted
 Ayes 83 - Nov 20
 Ayers.

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SEC. 9. Every citizen may freely speak, write, and publish his senti-
 2 ments on all subjects, being responsible for the abuse of that right; and no
 3 law shall be passed to restrain or abridge the liberty of speech or of the press.
 4 In all criminal prosecutions on indictments for libels, the truth may be given
 5 in evidence to the jury; and if it shall appear to the jury that the matter
 6 charged as libelous is true, and was published with good motives and for
 7 justifiable ends, the party shall be acquitted; and the jury shall have the right
 8 to determine the law and the fact.

[SEC. 9. Every citizen may freely speak, write, and publish his senti-
 2 ments on all subjects, being responsible for the abuse of that right; and no
 3 law shall be passed to restrain or abridge the liberty of speech or of the press,
 4 In all criminal prosecutions for libels, the truth may be given in evidence to
 5 the jury; and if it shall appear to the jury that the matter charged as libelous
 6 is true, and was published with good motives and for justifiable ends, the party
 7 shall be acquitted; ~~and the jury shall have the right to find a general verdict,~~
 8 ~~as in other criminal cases.~~ *determine the law and the fact.* Indictments found or information laid for publi-
 9 cations in newspapers shall be tried in the county where such newspapers have
 10 their publication office, or in the county where the party alleged to be libeled

83-122
 KLT

*Deputy
 95
 10/10/10*

11. resided at the time of the alleged publication, unless the place of trial shall be
12. changed for good cause.]

Adapted

SEC. 10. The people shall have the right to freely assemble together
2 to consult for the common good, to instruct their Representatives, and to peti-
3 tion the Legislature for redress of grievances.

Adapted

SEC. 11. All laws of a general nature shall have a uniform operation.

Adapted

SEC. 12. The military shall be subordinate to the civil power. No
2 standing army shall be kept up by this State in time of peace, and no soldier
3 shall, in time of peace, be quartered in any house without the consent of the
4 owner; nor in time of war, except in the manner to be prescribed by law.

SEC. 13. In criminal prosecutions, in any Court whatever, the party
 2 accused shall have the right to a speedy and public trial; to appear and
 3 defend, in person and with counsel; to demand the nature and cause of the
 4 accusation, and to have a copy thereof; to meet the witnesses face to face, and
 5 to have process to compel the attendance of witnesses in his behalf. No per-
 6 son, after having been once acquitted by a jury, or discharged by the Court,
 7 shall again be put in jeopardy for the same offense; nor shall he be compelled,
 8 in any criminal case, to be a witness against himself, nor be deprived of life,
 9 liberty, or property, without due process of law.

Hager

Sec. 13. line 8-

Strike out words
 "and using" and
 insert as follows

"in the presence of the
 party accused and his counsel"

in same line after word
 "cases" insert the
 following -

"Other than cases of Homicide"

and using the same

adopted

SEC. 13. In criminal prosecutions, in any Court whatever, the party
 2 accused shall have the right to a speedy and public trial; to appear and
 3 defend, in person and with counsel; to demand the nature and cause of the
 4 accusation, and to have a copy thereof; to meet the witnesses face to face, and
 5 to have process to compel the attendance of witnesses in his behalf. No per-
 6 son, after having been once acquitted by a jury, or discharged by the Court,
 7 shall again be put in jeopardy for the same offense; nor shall he be compelled,
 8 in any criminal case, to be a witness against himself, nor be deprived of life,
 9 liberty, or property, without due process of law.

Insert in line 8 after word "cases"
 as follows - "other than cases of,
~~punishable by death -~~ "Homocide."

accepted by Judge Hayes

Wilson of First Dist.

Hagans

10 or may be unable to do so.]

Shurtliff

Hagans

SEC. 13. In criminal prosecutions, in any Court whatever, the party
 2 accused shall have the right to a speedy and public trial; to appear and
 3 defend, in person and with counsel; to demand the nature and cause of the
 4 accusation, and to have a copy thereof; to meet the witnesses face to face, and
 5 to have process to compel the attendance of witnesses in his behalf. No per-
 6 son, after having been once acquitted by a jury, or discharged by the Court,
 7 shall again be put in jeopardy for the same offense; nor shall he be compelled,
 8 in any criminal case, to be a witness against himself, nor be deprived of life,
 9 liberty, or property, without due process of law.

Amend Sec 13 by striking out all after
 the word "that" in line 9 and insert in lieu thereof
 "the witnesses from inability or other cause will
 not attend at the trial"

Adopted

Shurtliff

9 reason to believe that from any cause the witness will not attend at the trial,
 10 or may be unable to do so.]

Hagers

Shurtliff

Hagers

SEC. 13. In criminal prosecutions, in any Court whatever, the party
 2 accused shall have the right to a speedy and public trial; to appear and
 3 defend, in person and with counsel; to demand the nature and cause of the
 4 accusation, and to have a copy thereof; to meet the witnesses face to face, and
 5 to have process to compel the attendance of witnesses in his behalf. No per-
 6 son, after having been once acquitted by a jury, or discharged by the Court,
 7 shall again be put in jeopardy for the same offense; nor shall he be compelled,
 8 in any criminal case, to be a witness against himself, nor be deprived of life,
 9 liberty, or property, without due process of law.

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[SEC. 13. In criminal prosecutions, in any Court whatever, the party
 2 accused shall have the right to a speedy and public trial; to have the process
 3 of the Court to compel the attendance of witnesses in his behalf, and to appear
 4 and defend, in person and with counsel. No person shall be twice put in
 5 jeopardy for the same offense; nor be compelled, in any criminal case, to be
 6 a witness against himself; nor be deprived of life, liberty, or property, with-
 7 out due process of law. The Legislature shall have power to provide for the
 8 taking and using of depositions of witnesses in criminal cases, when there is
 9 reason to believe that from any cause the witness will not attend at the trial,
 10 or may be unable to do so.]

Handwritten signature

Hager

Shuttle

Hager

MONDAY, JANUARY 20, 1910.

No.	TITLE.	Author.	Committee.	Report of Committee.	Action.
402	Preamble and Bill of Rights.....	Com. on P. and Bill of Rights	Com. of Whole	Adopted as amended	Adoption.
445	Relative to pardoning power.....	Com. on Pardon- ing Power.....	Com. of Whole	Adopted as amended	Adoption.
468	Relative to Executive Department.....	Com. on Ex. Dept.	Com. of Whole	Adopted as amended	Adoption.
444	Relative to corporations.....	Com. on Corpo- rations.....	Com. of Whole	Adopted as amended	Adoption.
454	Relative to Chinese.....	Com. on Chinese	Com. of Whole	Adopted as amended	Adoption.
485	Relative to the militia.....	Com. on Mil. Affrs.	Com. of Whole	Adopted as amended	Adoption.
501	Relative to legislation.....	Com. on Leg. Dept.	Com. of Whole	Adopted as amended	Adoption.

SEC. 14. Private property shall not be taken or damaged for public
 2 use, without just compensation having been made to or paid into Court for
 3 the owner, except in cases of war, riot, fire, or great public peril; in which
 4 cases compensation shall afterwards be made; such compensation or damages
 5 to be assessed by a jury, unless waived by the parties; nor shall the time or
 6 service of any person, except when held or under arrest for crime, be taken
 7 without just compensation to be fixed and provided by law.

Amend 2014

Amend as follows.
 Insert after jury in line
 7. ("unless a jury be waived")
 as in other civil cases."
 cross

" insert

adopted

by or waived in
civil cases

Amend Sec 15

Insert after the word "and" in line
 " or in civil actions for torts
 except in cases of wilful
 injury to person or property."

So that the section will
 read

"No person shall be imprisoned
 for debt in any civil case
 action or ~~any~~ mesne or
 final process, unless in
 cases of fraud, nor in civil
 actions for torts ~~except~~
 unless in cases of wilful or
 injury to person or property"

adapted

48
52

McCallum

SEC. 14. Private property shall not be taken or damaged for public
 2 use, without just compensation having been made to or paid into Court for
 3 the owner, except in cases of war, riot, fire, or great public peril; in which
 4 cases compensation shall afterwards be made; such compensation or damages
 5 to be assessed by a jury, unless waived by the parties; nor shall the time or
 6 service of any person, except when held or under arrest for crime, be taken
 7 without just compensation to be fixed and provided by law.

Naqu - Sec. 14. Line 1.
 After word "taken" insert
 as follows:
 "or damaged"
 Adopted 6-2-24

unless a jury be waived as
 in other civil cases

A large rectangular area containing a grid of horizontal lines, likely a ledger or a table for recording data. The grid consists of approximately 10 rows and 2 columns.

SEC. 14. Private property shall not be taken or damaged for public use, without just compensation having been made to or paid into Court for the owner, except in cases of war, riot, fire, or great public peril; in which cases compensation shall afterwards be made; such compensation or damages to be assessed by a jury, unless waived by the parties; nor shall the time or service of any person, except when held or under arrest for crime, be taken without just compensation to be fixed and provided by law.

or damaged

[SEC. 14. Private property shall not be taken for public use without just compensation having been first made to or paid into Court for the owner, and no right of way shall be appropriated to the use of any corporation other than municipal until full compensation therefor be first made in money or ascertained and paid into Court for the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury in a Court of record, as shall be prescribed by law.]

unless a jury be waived as in other civil cases

SEC. 15. No person shall be imprisoned for debt in any civil action, mesne or final process, unless in cases of fraud; and no person shall be imprisoned for a militia fine in time of peace.

or in civil actions for torts except in cases of willful injury to person or property

SEC. 16. No bill of attainder, ex post facto law, or law impairing the obligation of contracts, or the remedy for the enforcement or breach thereof, shall ever be passed.

amended

[SEC. 16. No bill of attainder, ex post facto law, or law impairing the obligation of contracts shall ever be passed.]

Amend Sec 17 as follows - ~~to read~~

"of the white race or of African descent" to be inserted after the word "foreigner" in Sec 17

Wilson of First Dist

a duplicate

SEC. 16. No bill of attainder, ex post facto law, or law impairing the
2 obligation of contracts, or the remedy for the enforcement or breach thereof,
3 shall ever be passed.

adopted

[SEC. 16. No bill of attainder, ex post facto law, or law impairing the
2 obligation of contracts shall ever be passed.]

of the white race or African descent

SEC. 17. Foreigners eligible to become citizens of the United States
under the naturalization laws thereof, while bona fide residents of this State,
shall have the same rights in respect to the possession, enjoyment, and inheri-
tance of property as native-born citizens.

[Section seventeen struck out.]

*Convention refused to concur in the
Amend to strike out*

SEC. 18. No form of slavery shall ever exist in this State, and there
2 shall be no involuntary servitude unless for the punishment of crime of which
3 the party shall have been duly convicted.

Abolished

[SEC. 18. Neither slavery nor involuntary servitude, unless for the
2 punishment of crime, shall ever be tolerated in this State.]

SEC. 19. The right of the people to be secure in their persons, houses,
2 papers, and effects, against unreasonable seizures and searches, shall not be
3 violated; and no warrant shall issue, but on probable cause, supported by oath
4 or affirmation, particularly describing the place to be searched and the persons
5 and things to be seized.

SEC. 20. Treason against the State shall consist only in levying war
2 against it, adhering to its enemies, or giving them aid or comfort. No person
3 shall be convicted of treason unless on the evidence of two witnesses to the
4 same overt act, or confession in open Court.

SEC. 21. No special privileges or immunities shall ever be granted
 2 which may not be altered, revoked, or repealed by the Legislature; nor shall
 3 any citizen, or class of citizens, be granted privileges or immunities which,
 4 upon the same terms, shall not be granted to all citizens.

SEC. 22. No money shall ever be appropriated or drawn from the
 2 State treasury for the use or benefit of any corporation, association, asylum,
 3 hospital, or any other institution, not under the exclusive management and
 4 control of the State; nor shall any grant or donation of property ever be
 5 made thereto by the State.

Struck Out

[Section twenty-two struck out.]

advised

Concurrent in

SEC. 23. The provisions of this Constitution are mandatory and prohibitory, unless by express words it is declared to be otherwise.

Adapted

[SEC. 23. The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.]

SEC. 24. This enumeration of rights shall not be construed to impair or deny others retained by the people.

Sec ~~23~~ *New Section*

No property qualification shall ever be required for any person to vote or hold office

Friend

adapted

ages 21

75 29

PREAMBLE AND BILL OF RIGHTS.

As Amended in Convention, and Ordered Engrossed for a Second Reading, January 28th, 1879.

PREAMBLE AND DECLARATION OF RIGHTS.

PREAMBLE.

We, the People of the State of California, grateful to Almighty God for our freedom, in order to secure and perpetuate its blessings, do establish this Constitution.

ARTICLE I.

DECLARATION OF RIGHTS.

SECTION 1. All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing, and protecting property; and pursuing and

Amend Sec 1 as follows
Add at the end of the section:
"and the State of California is
an inseparable part of the American
Union"

Adopted - 94-21

Wm. G. Ke

PREAMBLE AND BILL OF RIGHTS.

As Amended in Convention, and Ordered Engrossed for a Second Reading, January 28th, 1879.

PREAMBLE AND DECLARATION OF RIGHTS.

PREAMBLE.

We, the People of the State of California, grateful to Almighty God for our freedom, in order to secure and perpetuate its blessings, do establish this Constitution.

ARTICLE I.

DECLARATION OF RIGHTS.

SECTION 1. All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing, and protecting property; and pursuing and obtaining safety and happiness.

SEC. 2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have the right to alter or reform the same whenever the public good may require it.

SEC. 3. The Constitution of the United States is the supreme law of the land.

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SEC. 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be guaranteed in this State; and no person shall be rendered incompetent to be a witness or juror

on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

SEC. 5. The privilege of the writ of habeas corpus shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require its suspension.

SEC. 6. All persons shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed; nor shall cruel or unusual punishments be inflicted. Witnesses shall not be unreasonably detained, or confined in any room where criminals are actually imprisoned.

SEC. 7. The right of trial by jury shall be secured to all, and remain inviolate; but in civil actions three-fourths of the jury may render a verdict. A trial by jury may be waived in all criminal cases not amounting to felony, by the consent of both parties, in open Court expressed, and in civil cases by the consent of the parties, signified in such manner as may be prescribed by law. In civil cases, and cases of misdemeanor, the jury may consist of any number less than twelve that the parties may agree upon in open Court.

SEC. 8. Offenses heretofore required to be prosecuted by indictment shall be prosecuted by indictment or by information, after commitment and examination by a Magistrate, as may be prescribed by law; but a grand jury shall be drawn and summoned at least once a year in each county.

SEC. 9. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be

acquitted; and the jury shall have the right to determine the law and the fact. Indictments found, or information laid, for publications in newspapers shall be tried in the county where such newspapers have their publication office, or in the county where the party alleged to be libeled resided at the time of the alleged publication, unless the place of trial shall be changed for good cause.

SEC. 10. The people shall have the right to freely assemble together to consult for the common good, to instruct their Representatives, and to petition the Legislature for redress of grievances.

SEC. 11. All laws of a general nature shall have a uniform operation.

SEC. 12. The military shall be subordinate to the civil power. No standing army shall be kept up by this State in time of peace, and no soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in the manner to be prescribed by law.

SEC. 13. In criminal prosecutions, in any Court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the Court to compel the attendance of witnesses in his behalf, and to appear and defend, in person and with counsel. No person shall be twice put in jeopardy for the same offense; nor be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law. The Legislature shall have power to provide for the taking, in the presence of the party accused and his counsel, of depositions of witnesses in criminal cases, other than cases of homicide, when there is reason to believe that the witness, from inability or other causes, will not attend at the trial.

SEC. 14. Private property shall not be taken or damaged for public use without just compensation having been first made to, or paid into Court for, the owner, and no right of way shall be appropriated to the use of any corporation other than municipal, until full compensation therefor be first made in money or ascertained and paid into Court for the owner, irrespective of any benefit.

from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived, as in other civil cases in a Court of record, as shall be prescribed by law.

SEC. 15. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in cases of fraud, nor in civil actions for torts, except in cases of wilful injury to person or property; and no person shall be imprisoned for a militia fine in time of peace.

SEC. 16. No bill of attainder, ex post facto law, or law impairing the obligation of contracts shall ever be passed.

SEC. 17. Foreigners of the white race or of African descent, eligible to become citizens of the United States under the naturalization laws thereof, while bona fide residents of this State, shall have the same rights in respect to the possession, enjoyment, and inheritance of property as native-born citizens.

SEC. 18. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.

SEC. 19. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable seizures and searches, shall not be violated; and no warrant shall issue, but on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

SEC. 20. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid or comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open Court.

SEC. 21. No special privileges or immunities shall ever be granted which may not be altered, revoked, or repealed by the Legislature; nor shall any citizen, or class of citizens, be granted privileges or immunities which, upon the same terms, shall not be granted to all citizens.

SEC. 22. The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

SEC. 23. This enumeration of rights shall not be construed to impair or deny others retained by the people.

SEC. 24. No property qualification shall ever be required for any person to vote or hold office.

Bill of Rights

July 6/79

Reported, Correctly
Engrossed

Edwin F Smith

Deputy

July 20th 1879

Read second time and
adopted and referred
to Committee on Revision
and Adjustment

Thornton

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