1)

In Convention
Assembly Chamber
State Capitol
Sacramento
Monday Jan. 28 1849

Convention met pursuant to adjournment.

President Pico in the Chair.

Roll called and the following members were absent:

2

Roll-Call of Delegates to the Constitutional Convention, 1878.

Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.
ANDREWS	1		FAWCETT			LARUE			SHAFTER		
AYERS	2		FILCHER	26		LAVIGNE	55		SHOEMAKER	80	
BARBOUR	109		FINNEY			LEWIS	56		SHURTLEFF		
BARNES			FREEMAN			LINDOW			SMITH of Santa Clara.	81	
BARRY	3		FREUD	27		MANSFIELD	57		SMITH of Fourth District.	82	
BARTON	4		GARVEY	28		MARTIN of Alameda.	108		SMITH of San Francisco.	83	
BEERSTECHER	5		GLASSCOCK	29		MARTIN of Santa Cruz.	58		SOULE	84	
BELCHER	6		GORMAN	30		McCALLUM	59		STEDMAN	85	
BELL	7		GRACE	31		McCOMAS	60		STEELE	86	
BERRY			GRAVES			McCONNELL	61		STEVENSON	87	
BIGGS	8		GREGG	32		McCOY	62		STUART	88	
BLACKMER	9		HAGER	33		McFARLAND	63		SWEASEY	89	
BOGGS			HALE			McNUTT	64		SWENSON	90	
BOUCHER	10		HALL			MILLER			SWING		
BROWN	11		HARRISON	34		MILLS	65		TERRY		
BURT	12		HARVEY	35		MOFFAT	66		THOMPSON	91	
CAMPBELL			HEISKELL	36		MORELAND	67		TINNIN	92	
CAPLES	108		HEROLD	37		MORSE	68		TOWNSEND		
CASSERLY	13		HERRINGTON	38		MURPHY			TULLY	93	
CHAPMAN	14		HILBORN	39		NASON	69		TURNER	94	
CHARLES	15		HITCHCOCK	40		NELSON	110		TUTTLE	95	
CONDON	16		HOLMES	41		NEUNABER	70		VACQUEREL	96	
COWDEN			HOWARD of Los Angeles.	42		NOEL			VAN DYKE		
CROSS	17		HOWARD of Mariposa and Merced.	43		O'DONNELL			VAN VOORHIES		
CROUCH	18		HUESTIS	44		OHLEYER	71		WALKER of Marin.	97	
DAVIS	19		HUGHEY	45		O'SULLIVAN	72		WALKER of Tuolumne.	98	
DEAN	20		HUNTER	46		OVERTON			WATERS		
DOWLING	21		INMAN	47		PORTER			WEBSTER	99	
DOYLE	22		JOHNSON			PROUTY	73		WELLER	100	
DUDLEY of San Joaquin and Amador.			JONES	48		PULLIAM	74		WELLIN	101	
DUDLEY of Solano.	23		JOYCE	49		REDDY	111		WEST	102	
DUNLAP	112		KELLY	50		REED	75		WICKES		
EAGON			KENNY			REYNOLDS	76		WHITE	103	
EDGERTON			KEYS	51		RHODES	77		WILSON of Tehama.	104	
ESTEY of Contra Costa and Marin.			KLEINE	52		RINGGOLD	78		WILSON of First District.		
ESTEE of First District.	24		LAINE			ROLFE	79		WINANS	105	
EVEY	25		LAMPSON	53		SCHELL			WYATT	106	
FARRELL	111		LARKIN	54		SCHOMP			Mr. PRESIDENT	107	

Ayes _____

Noes _____

Leave of Absence.

Leave of absence was granted for one day to Messrs Larue, Schell and Lindow.

On motion of Mr. Beerstecher the reading of the journal was dispensed with and the same approved.

Petitions.

Messrs. Dudley of Solano, Hoyt, Wilson of Tehama, Belcher, Burt, Larkin, Melloy and Reed.

~~Mr. Filcher~~ presented petitions, requesting the exemption of certain property, used for charitable, educational, and church purposes, from taxation.

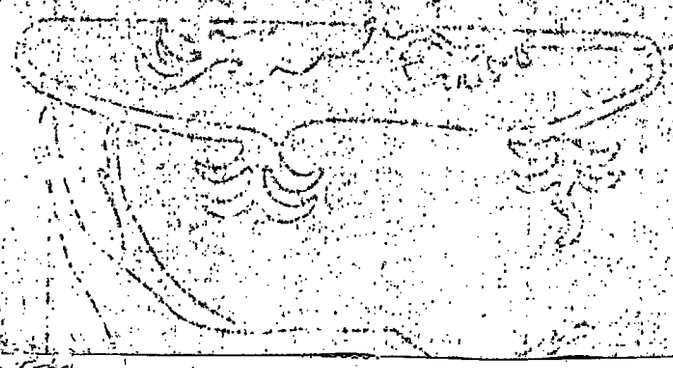
Laid on the table, to be considered with the article on revenue and taxation.

(4)

Proposed amendment.

Mr. McCullum presented the following proposition, which was referred to the Committee of the whole:—

5



PROPOSITION RELATIVE TO THE DISTRIBUTION OF POWERS.

ARTICLE III.

SECTION 1. The powers of the government of the State of California shall be divided into three separate departments—the legislative, the executive, and judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any functions appertaining to either of the others, except in the cases hereinafter expressly directed or permitted.

SEC. 2. The Legislature may provide that causes submitted in the Courts shall be decided within a limited time, under such conditions as may be provided by law.

6)

Reconsideration.

Mr. Estee in accordance with previous notice, moved to reconsider the vote by which the substitute for section 3 of article on Preamble and Bill of Rights, reported by the committee of the whole, was ~~rejected~~ defeated. on yesterday

Messrs. Barry, Dean, Tully, Waters and Smith of Santa Clara demanded the previous question.

The question being "shall the main question be now put." the ayes and noes were demanded by Messrs Howard of Los Angeles, Shoemaker O'Sullivan, Hunter and Joyce

7)

The roll was called and the previous question ordered by the following vote:

8)

Roll-Call of Delegates to the Constitutional Convention, 1878.

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

Ayes 69

Noes 45

1

85

9

Upon the motion of Mr. Estes to reconsider the ayes and noes were demanded by Messrs Wyatt, Dean, O'Sullivan, Condon and Joyce

The roll was called and the motion prevailed by the following vote.

10)

Roll-Call of Delegates to the Constitutional Convention, 1878.

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

Ayes 65

Noes 54

65 — 53

11)

Mr McCallum offered the following amendment

Amend section three by striking out ~~the word~~ the word after the figure three (3) and inserting as follows:

"The Constitution of the United States is the supreme law of the land."

upon the adoption of the amendment of Mr. McCallum the ayes and noes were demanded by Messrs Larkin, O'Sullivan, Tilley White and ~~Dean~~ McCallum

(12) The roll was called and the amendment ~~[illegible]~~ adopted by the following vote:

13

Roll-Call of Delegates to the Constitutional Convention, 1878.

Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.
ANDREWS	1		FAWCETT			LARUE			SHAFTER		
AYERS	98	1	FILCHER	23		LAVIGNE	48		SHOEMAKER	72	
BARBOUR	2		FINNEY			LEWIS	101		SHURTLEFF	73	
BARNES			FREEMAN	24		LINDOW			SMITH of Santa Clara.	74	
BARRY	3		FREUD	25		MANSFIELD	49		SMITH of Fourth District.	75	
BARTON	4		GARVEY	26		MARTIN of Alameda.	50		SMITH of San Francisco.	76	
BEERSTECHER	5		GLASSCOCK	27		MARTIN of Santa Cruz.	51		SOULE	77	
BELCHER	6		GORMAN			McCALLUM	52		STEDMAN	78	
BELL	7		GRACE	28		McCOMAS	53		STEELE	79	
BERRY			GRAVES			McCONNELL	54		STEVENSON	80	
BIGGS	8		GREGG	29		McCOY	55		STUART		16
BLACKMER		2	HAGER	30		McFARLAND		13	SWEASEY	81	
BOGGS			HALE	31		McNUTT	56		SWENSON	82	
BOUCHER	100	3	HALL			MILLER			SWING	83	
BROWN	9		HARRISON	32		MILLS		14	TERRY		
BURT		4	HARVEY	33		MOFFAT	57		THOMPSON	84	
CAMPBELL			HEISKELL	34		MORELAND	58		TINNIN	85	
CAPLES	10		HEROLD	35		MORSE	59		TOWNSEND	97	
CASSERLY	11		HERRINGTON	36		MURPHY	60		TULLY	86	
CHAPMAN	99	5	HILBORN		8	NASON			TURNER		
CHARLES	12		HITCHCOCK	37		NELSON	61		TUTTLE	87	
CONDON	13		HOLMES	38		NEUNABER	62		VACQUEREL	88	
COWDEN			HOWARD of Los Angeles.		9	NOEL			VAN DYKE		
CROSS	14		HOWARD of Mariposa and Merced.	39		O'DONNELL			VAN VOORHIES		
CROUCH	15		HUESTIS	40		OHLEYER	63		WALKER of Marin.	89	
DAVIS	16		HUGHEY	41		O'SULLIVAN	64		WALKER of Tuolumne.		17
DEAN		6	HUNTER	42		OVERTON			WATERS	90	
DOWLING		7	INMAN		10	PORTER			WEBSTER	91	
DOYLE	17		JOHNSON			PROUTY	65		WELLER		18
DUDLEY of San Joaquin and Amador.			JONES		11	PULLIAM	66		WELLIN	92	
DUDLEY of Solano.	18		JOYCE	43		REDDY	67		WEST		19
DUNLAP	19		KELLY	44		REED	68		WICKES		
EAGON			KENNY			REYNOLDS	69		WHITE	93	
EDGERTON			KEYS	45		RHODES	70		WILSON of Tehama.		20
ESTEY of Contra Costa and Marin.			KLEINE		12	RINGGOLD	71		WILSON of First District.		
ESTEE of First District.	20		LAINE			ROLFE		15	WINANS	94	
EVEY	21		LAMPSON	46		SCHELL			WYATT	95	
FARRELL	22		LARKIN	47		SCHOMP			Mr. PRESIDENT	96	

Ayes ~~75~~ 101

Noes ~~20~~ 17

1 1
97 19
4 18
101 17

Attested Copy

Recess.

The hour having arrived the Convention took a recess till two o'Clock P. M.

Afternoon Session.

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

President Hogan in the Chair

Quorum present

The amendment to section 3 as amended was adopted.

The amendments to the article, proposed by the Committee of the whole, were read. commencing at sec. 13

The following amendment of the Committee of the whole to section thirteen was read:—

[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.]

Mr. Jones offered the following amendment:

"Amend by striking out all after the word "law" in line 7.

Mr. Hayes offered the following amendment

Strike out the words "and using" in line 8 and insert as follows, "in the presence of the party accused and his counsel"

In same line after the word "cases" insert the

following "other than cases of Homicide, and passing the same".

The amendment of Mr. Hayes adopted.

The amendment of Mr. Jones was rejected.

Mr. Shurtliff offered the following:

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

adopted

17) Mr Mills offered the following

Amend Amendment adopted in Committee of the Whole to Section 13; on line 4, after the word "Counsel," add and insert the following words:-

to have the jury selected from the district, County or township in which the crime is charged to have been committed, unless the venue be changed as provided by law.

Rejected.

The amendment as amended was adopted.

The following amendment of the committee of the whole, to Section 14 was read:

18

[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.]

Mr. Jones offered the following amendment:

Sec. 14. Amend ~~the Amendment Reported by Judiciary Committee~~ by adding the following, viz:

"Nor shall the time or service of any person, except when held or under arrest for crime, be taken by virtue of any lawful writ, process or order of any Court or magistrate, without first compensation to be fixed and provided for by law."

Rejected.

Mr. Meyer offered the

following:-

Insert after the word "taken" in line one, the words "or damaged"

adopted.

Mr. Merrington offered the following:-

Strike out all after the word "owner" line three down to and including the word "corporation" in line 6.

Rejected.

Mr. Cross offered the following.

amend as follows

"Insert after jury in line 7, "unless a jury be waived

20) as in other civil cases"

adopted.

Section 14 as ~~adopted~~ amended was adopted.

Mr. Mr. Mrs. Wilson of first dist. gave notice of reconsideration of the vote ~~adopting~~ on sec 14

The following amendment of the committee of the whole for Sec 16 was adopted

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

The committee of the whole recommended that section prevention (17) be stricken out.

The convention refused to concur in striking out.

21)

The following reported by the committee of the whole for sec. 18 was read.

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

Mr. O'Sullivan offered the following:
Mr. Webster offered the following:—

Amend Sec 18 so as to read as follows

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall ever exist in this state

Rejected

The amendment M

22)

the committee of the whole was adopted.

The committee of the whole struck out sec. 22, which was concurred in by the convention.

The following report by the committee of the whole for section 23:

[SEC. 23. The provisions of this Constitution are mandatory and pro-
2 hibitory unless by express words they are declared to be otherwise.]

which was adopted by the convention

Mr. Howard moved to reconsider the vote by which the Convention on second struck out of section 6 the provision relating to corporal punishment.

Mr. Murphy moved to indefinitely postpone the motion to reconsider, upon which the ayes and noes were demanded by Messrs Howard of Los Angeles, Winans Beverly, Key and Mason.

The roll was called and the motion to reconsider was indefinitely postponed by the following vote:—

24

Roll-Call of Delegates to the Constitutional Convention, 1878.

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

AYES 73

NOES 26

Mr. Frend offered the following as a new section:

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

Upon the adoption of the amendment the ayes & noes were demanded by Messrs Steadman, Willin, Cross, Frend and O'Sullivan.

The roll was called and the amendment adopted by the following vote:-

26

Roll-Call of Delegates to the Constitutional Convention, 1878.

Roll Call of Delegates to the Constitutional Convention 1878 1878

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

AYES 73

NOES 39

69 70 71 2[illegible]

36 7 8 39

26

Reconsideration

Mr. Barry moved

~~I hereby give notice that I will on to morrow, January twenty eighth move~~ to reconsider the vote on section seven, whereby the words between "actions" and "both," in lines two, three, and four of the section were stricken out.

Upon which motion the ayes and noes were demanded by Messrs Casserly, Wyatt, McCommas Chiles and Stewart.

RECEIVED

The roll was called and the motion to reconsider was lost by the following vote:

Roll-Call of Delegates to the Constitutional Convention, 1878.

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

Ayes 57

Noes 61

57
2
60

29

Mr. McCallum offered the following amendment to Section 15.

Insert after the word "fraud" line 2 "or in civil actions for torts, except in cases of wilful injury to person or property" adopted.

Mr. Wilson of 4th dist. offered the following amendment to Section 17. "of the white race or of African descent" be

30

" inserted after the words foreignes" in Sec. 17. Adopted.

Reconsideration

Mr. Jones moved

Also:

I give notice that to-morrow, January twenty-eighth, I will move the Convention to reconsider the vote by which the Convention has to-day voted against the amendment offered by me to section two, of article on declaration of rights, viz., to amend said section by inserting in line ——, between the words "same" and "whenever," the following words, "by proceedings in accordance with law."

Mr. Waters moved to indefinitely postpone the motion to reconsider Carried.

Mr. Jones moved

I give notice that to-morrow, January twenty-eighth, I will move the Convention to reconsider the vote by which the Convention voted to strike out from line five, of section six, of declaration of rights, the words "jail or."

Mr. Tuley moved to postpone the motion to reconsider

31)

~~Carried~~.
which motion prevailed

Notice

Jan 28. I give notice that tomorrow
Jan. 29. I will move to reconsider
the vote by which the Amendment
to Sec. 14. offered by me to day
in the following words — viz —
"Nor shall the time, or services,
of any person, except when held
or under arrest for crime, be
taken by virtue of any lawful
writ, order or process, of any
Court or magistrate, with-
out first Compensation to be
paid, and provided for by
law" — was repeated by
Jones

at five o'Clock and
15 Minutes P.M. Mr.
Blackmer moved

to adjourn.
Lost.

The question being "shall the articles be engrossed for a second reading" the ayes and noes were demanded by Messrs Howard of Los Angeles, Ayers Berstchs, Hustis and O'Sullivan

The roll was called and the motion

33)

prevailed by the following vote:

34)

Roll-Call of Delegates to the Constitutional Convention, 1878.

Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.
ANDREWS	1		FAWCETT			LARUE			SHAFTER		
AYERS	2		FILCHER	29		LAVIGNE	58		SHOEMAKER	84	
BARBOUR	3		FINNEY			LEWIS	59		SHURTLEFF	85	
BARNES			FREEMAN	30		LINDOW			SMITH of Santa Clara.		
BARRY	4		FREUD	31		MANSFIELD	60		SMITH of Fourth District.	84	
BARTON	5		GARVEY	32		MARTIN of Alameda.	61		SMITH of San Francisco.	85	
BEERSTECHER	6		GLASSCOCK	33		MARTIN of Santa Cruz.			SOULE	86	
BELCHER			GORMAN	34		McCALLUM	62		STEDMAN	87	
BELL	7		GRACE	35		McCOMAS	63		STEELE		
BERRY			GRAVES			McCONNELL			STEVENSON	88	
BIGGS			GREGG	36		McCOY	64		STUART	89	
BLACKMER	8		HAGER	37		McFARLAND			SWEASEY	90	
BOGGS			HALE	38		McNUTT	65		SWENSON	91	
BOUCHER	9		HALL			MILLER			SWING	92	
BROWN	10		HARRISON	39		MILLS	6	1	TERRY		
BURT	11		HARVEY	40		MOFFAT	66		THOMPSON	93	
CAMPBELL			HEISKELL	41		MORELAND	67		TINNIN	94	
CAPLES	12		HEROLD	42		MORSE	68		TOWNSEND		
CASSERLY	13		HERRINGTON	43		MURPHY	69		TULLY	95	
CHAPMAN	14		HILBORN	4		NASON			TURNER	6	
CHARLES	15		HITCHCOCK	44		NELSON	70		TUTTLE		
CONDON	16		HOLMES	45		NEUNABER	71		VACQUEREL	96	
COWDEN			HOWARD of Los Angeles.	46		NOEL			VAN DYKE		
CROSS	17		HOWARD of Mariposa and Merced.	47		O'DONNELL			VAN VOORHIES		
CROUCH	18		HUESTIS	48		OHLEYER	72		WALKER of Marin.		
DAVIS	19		HUGHEY	49		O'SULLIVAN	73		WALKER of Tuolumne.	97	
DEAN	20		HUNTER	50		OVERTON			WATERS	98	
DOWLING	21		INMAN	51		PORTER			WEBSTER	99	
DOYLE	22		JOHNSON			PROUTY	74		WELLER	1	4
DUDLEY of San Joaquin and Amador.			JONES		1	PULLIAM	75		WELLIN	100	
DUDLEY of Solano.	23		JOYCE	52		REDDY	76		WEST	101	
DUNLAP	24		KELLY			REED	77		WICKES		
EAGON			KENNY	53		REYNOLDS	7	3	WHITE	102	
EDGERTON			KEYS	54		RHODES	78		WILSON of Tehama.	103	
ESTEY of Contra Costa and Marin.	25		KLEINE	55		RINGGOLD	79		WILSON of First District.	1	5
ESTEE of First District.	26		LAINE			ROLFE	80		WINANS	104	
EVEY	27		LAMPSON	56		SCHELL			WYATT	105	
FARRELL	28		LARKIN	57		SCHOMP	81		Mr. PRESIDENT	106	

Ayes 106

Noes 5

35

Adjournment

At five o'clock and 25 minutes P.M. on motion of Mr. Joyce the Convention adjourned

1/28/79

Jan 28.