1

Reference

Ohio Convention
Assembly Chamber
State Capitol
Sacramento,
Tuesday Feb 11th 1879

Convention met
pursuant to adjournment
President Hoge 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	54		SHAFTER		
AYERS	2		FILCHER	107		LAVIGNE			SHOEMAKER	111	
BARBOUR	3		FINNEY			LEWIS	55		SHURTLEFF	77	
BARNES			FREEMAN	30		LINDOW	56		SMITH of Santa Clara.	78	
BARRY	4		FREUD	31		MANSFIELD	57		SMITH of Fourth District.	79	
BARTON	5		GARVEY	32		MARTIN of Alameda.			SMITH of San Francisco.	80	
BEERSTECHER	6		GLASSCOCK			MARTIN of Santa Cruz.			SOULE	81	
BELCHER	7		GORMAN	33		McCALLUM	58		STEDMAN	82	
BELL	8		GRACE	109		McCOMAS	59		STEELE	83	
BERRY			GRAVES			McCONNELL			STEVENSON	84	
BIGGS	9		GREGG			McCOY	60		STUART	85	
BLACKMER			HAGER			McFARLAND			SWEASEY		
BOGGS	10		HALE	108		McNUTT	61		SWENSON	86	
BOUCHER	11		HALL			MILLER			SWING	87	
BROWN	12		HARRISON	34		MILLS	111		TERRY		
BURT	13		HARVEY	35		MOFFAT	62		THOMPSON	88	
CAMPBELL	14		HEISKELL	36		MORELAND	63		TINNIN	89	
CAPLES	15		HEROLD	37		MORSE			TOWNSEND	90	
CASSERLY	16		HERRINGTON			MURPHY			TULLY	91	
CHAPMAN	17		HILBORN	38		NASON	64		TURNER	92	
CHARLES	18		HITCHCOCK	39		NELSON	65		TUTTLE	93	
CONDON	19		HOLMES			NEUNABER	66		VACQUEREL	94	
COWDEN	112		HOWARD of Los Angeles.	40		NOEL	67		VAN DYKE		
CROSS	20		HOWARD of Mariposa and Merced.	41		O'DONNELL			VAN VOORHIES	95	
CROUCH	21		HUESTIS	42		OHLEYER			WALKER of Marin.		
DAVIS	22		HUGHEY	43		O'SULLIVAN	68		WALKER of Tuolumne.	96	
DEAN	23		HUNTER	44		OVERTON			WATERS	97	
DOWLING	24		INMAN	45		PORTER			WEBSTER		
DOYLE	25		JOHNSON			PROUTY			WELLER	98	
DUDLEY of San Joaquin and Amador.			JONES	46		PULLIAM	69		WELLIN	99	
DUDLEY of Solano.	26		JOYCE	47		REDDY			WEST	100	
DUNLAP	27		KELLY	48		REED	70		WICKES	101	
EAGON	110		KENNY	49		REYNOLDS	71		WHITE	102	
EDGERTON			KEYS	50		RHODES	72		WILSON of Tehama.	103	
ESTEY of Contra Costa and Marin.	28		KLEINE	51		RINGGOLD	73		WILSON of First District.	104	
ESTEE of First District.			LAINE			ROLFE	74		WINANS		
EVEY	29		LAMPSON	52		SCHELL	75		WYATT	105	
FARRELL	113		LARKIN	53		SCHOMP	76		MR. PRESIDENT	106	

Ayes _____

Noes _____

107
8

3)

Leave of Absence.

Leave of absence was granted for one day to Messrs Holmes and Oshiger for two days to Mr. McFarland, for three days to Messrs. Bluckmer, Glauscock and McConnell and indefinite leave to Mr Herrington on account of sickness.

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

Question of privilege.

Mr. Larkin rose to a question of privilege, in regard to an editorial in the Record-Union commenting upon the action of the convention in

question of taxation.

Petitions

The President and Mr. Gorman 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.

General File.

Amendment No 510 - resumed.

Mr. Ayers offered the following:

Sec. — The Legislature may impose a succession tax upon all legacies

5)

and distributive shares derived from the estates of deceased persons: provided - that except in the cases of non-resident aliens, no child, brother, sister, father mother, husband or wife of any deceased person, shall pay such succession tax, unless the distributive share of such person amounts in the aggregate to more than five thousand dollars in value.

upon which the ayes and noes were demanded by Messrs. Bees-stehs, Brown, White, ayes 000 Cnaln

The roll was called and the amendment rejected by the following vote;

6

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

Ayes 39

Noes 68

7)

Mr O'Sullivan Offered the following:

Additional Section to Article on Revenue & Taxation.

Section — The State Board of Equalization shall classify the lands of the State each second year, each class to have its specific valuation per acre, such valuation to be the basis of the assessment. The Legislature shall provide a system of graduated taxation on all land.

Mr. Cross Offered the following amendment:

Amend by inserting before "land" in line one, the words "agricultural and grazing" so that it reads

Rejected.

Upon the amendment of Mr. O'Sullivan the ayes and noes were demanded

8/

by Messrs, O'Sullivan, White, Gorman, Doyle, and Burstellus.

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

9) Sanders

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

Ayes 40

Noes 64

40 / 64

10) Parrid-Herrington Age-with Shoemaker (rest

~~Sq~~ upon the question of ordering the article engrossed for a second reading. Messrs Wyatt, McCommas, Huntis, Larkin and Dunlap. demanded the previous question. which was ordered by the convention.

The article was ordered engrossed for a second reading.

Amendment: No. 503.

Judicial Department.

Amendments recommended by the committee of the whole. ~~read.~~

Sec. 2

The committee recommend the following:—

11

Omit stage

[SEC. 2. The Supreme Court shall consist of a Chief Justice and six Associate Justices. The Court may sit in departments and in bank, and shall always be open for the transaction of business. There shall be two departments, denominated, respectively, Department One and Department Two. The Chief Justice shall assign three of the Associate Justices to each department, and such assignment may be changed by him from time to time. The Associate Justices shall be competent to sit in either department, and may interchange with each other by agreement among themselves or as ordered by the Chief Justice. Each of the departments shall have the power to hear and determine causes and all questions arising therein, subject to the provisions hereinafter contained in relation to the Court in bank. The presence of three Justices shall be necessary to transact any business in either of the departments, except such as may be done at Chambers, and the concurrence of three Justices shall be necessary to pronounce a judgment. The Chief Justice shall apportion the business to the departments, and may, in his discretion, order any cause pending before the Court to be heard and decided by the Court in bank. The order may be made before or after judgment pronounced by a department; but where a cause has been allotted to one of the departments, and a judgment pronounced thereon, the order must be made within thirty days after such judgment, and concurred in by two Associate Justices, and if so made it shall have the effect to vacate and set aside the judgment. If the order be not made within the time above limited, the judgment shall be final. No judgment by a department shall become final until the expiration of the period of thirty days aforesaid, unless approved by the Chief Justice, in writing, with the concurrence of two Associate Justices. The Chief Justice may convene the Court in bank at any time, and shall be the presiding Justice of the Court when so convened. The concurrence of four Justices present at the argument shall be necessary to pronounce a judgment in bank; but if four Justices, so present, do not concur in a judgment, then all the Justices qualified to sit in the cause shall hear the argument; but to render a judgment a concurrence of four Judges shall be necessary. In the determination of causes, all decisions of the Court in bank or in departments shall be given in writing, and the grounds of the decision shall be stated. The Chief Justice may sit in either department, and shall preside when so sitting, but the Justices assigned to each department shall select one of their number as presiding Justice. In case of the absence of the Chief Justice from the place at which the Court is held, or his inability to act, the Associate Justices shall select one of their own number to perform the duties and exercise the powers of the Chief Justice during such absence or inability to act.]

28 four Justices present at the argument shall be necessary to pronounce a judg-
29 ment in bank; but if four Justices, so present, do not concur in a judgment,
30 then all the Justices qualified to sit in the cause shall hear the argument; but
31 to render a judgment a concurrence of four Judges shall be necessary. In
32 the determination of causes, all decisions of the Court in bank or in depart-
33 ments shall be given in writing, and the grounds of the decision shall be
34 stated. The Chief Justice may sit in either department, and shall preside
35 when so sitting, but the Justices assigned to each department shall select one
36 of their number as presiding Justice. In case of the absence of the Chief
37 Justice from the place at which the Court is held, or his inability to act, the
38 Associate Justices shall select one of their own number to perform the duties
39 and exercise the powers of the Chief Justice during such absence or inability
40 to act.]

SEC. 3. The Chief Justice and the Associate Justices shall be elected
2 by the qualified electors of the State at large, at the general State elections,
3 at the times and places that State officers are elected; and the term of office
4 shall be twelve years, from and after the first Monday of January next suc-
5 ceeding their election; *provided*, that the six Associate Justices elected at the
6 first election shall, at their first meeting, so classify themselves, by lot, that
7 two of them shall go out of office at the end of four years, two of them at the
8 end of eight years, and two of them at the end of twelve years, and an entry
9 of such classification shall be made in the minutes of the Court in bank,
10 signed by them, and a duplicate thereof shall be filed in the office of the

adopted.

[SEC. 2. The Supreme Court shall consist of a Chief Justice and six
2 Associate Justices. The Court may sit in departments and in bank, and shall
3 always be open for the transaction of business. There shall be two depart-
4 ments, denominated, respectively, Department One and Department Two.
5 The Chief Justice shall assign three of the Associate Justices to each depart-
6 ment, and such assignment may be changed by him from time to time. The
7 Associate Justices shall be competent to sit in either department, and may
8 interchange with each other by agreement among themselves or as ordered
9 by the Chief Justice. Each of the departments shall have the power to hear
10 and determine causes and all questions arising therein, subject to the provis-
11 ions hereinafter contained in relation to the Court in bank. The presence of
12 three Justices shall be necessary to transact any business in either of the
13 departments, except such as may be done at Chambers, and the concurrence

12/ Kent

Mr. Burbons offered the following:

Substitute for Sec 8

The Supreme Court shall consist of a chief Justice and six associate Justices. The Court may sit in bank and in departments, and shall be always open for business. The Court may proceed in departments whenever the condition of business may require it, under such regulations as may be prescribed by law. In the determination of causes all decisions of the Court in bank or in departments shall be given in writing, and the grounds of the decision shall be stated

upon ~~which~~ the above amendment. the ayes and noes were demanded by Messrs. Barbour,

13)

Condon, Joyce, Swenson and White

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

14)

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

Ayes 27

Noes 72

135

Amendment

Mr. Cross offered the following amendment:-

insert after the word "judgment" in the 22d line, the words.

"any four" justices may, either before or after judgment by a department, order a case to be heard in bank".

Recess

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

Afternoon Session.

Convention reassembled at two o'clock P.M.

President Hoge in the chair.

(16)

Quorum present.

General File - amendment No 303 - resumed.

The amendment of Mrs Cross adopted.

The amendment of the Committee as amended was concurred in,

Sec. 4

The committee recommended the following:

171 Ware

[SEC. 4. The Supreme Court shall have appellate jurisdiction in all
2 cases in equity; also, in all cases at law which involve the title or possession
3 of real estate, or the legality of any tax, impost, assessment, toll, or munici-
4 pal fine, or in which the demand, exclusive of interest, or the value of the
5 property in controversy, amounts to three hundred dollars; also in cases of
6 forcible entry and detainer, and in all such probate matters as may be pro-
7 vided by law; also, in all criminal cases prosecuted by indictment, or informa-
8 tion in a Court of record on questions of law alone. The Court shall also
9 have power to issue writs of mandamus, certiorari, prohibition, and habeas
10 corpus, and, also, all writs necessary or proper to the complete exercise of its
11 appellate jurisdiction. Each of the Justices shall have power to issue writs
12 of habeas corpus to any part of the State, upon petition by or on behalf of any
13 person held in actual custody, and may make such writs returnable before
14 himself, or the Supreme Court, or before any Superior Court in the State, or
15 before any Judge thereof.]

Mr Rolf offered the following amendment:-

Insert after the word "Equity" in line 2 the words.

"except such as arise in Justice's courts."

adopted.

Mr McCallum offered the following ~~amendment~~:-

18)

"Strike out all after the word "cases" in line seven to the word "on" in line 8 - and insert "amounting to felony"

Rejected.

The amendment of the Committee as amended was adopted.

Sec. 5.

The Committee recommended the following:

(19) Dunn

[SEC. 5. The Superior Court shall have original jurisdiction in all
2 cases in equity, and in all cases at law which involve the title or possession of
3 real property, or the legality of any tax, impost, assessment, toll, or municipal
4 fine, and in all other cases in which the demand, exclusive of interest or the
5 value of the property in controversy, amounts to three hundred dollars, and
6 in all criminal cases amounting to felony, and cases of misdemeanor not oth-
7 erwise provided for; also, in actions of forcible entry and detainer, of pro-
8 ceedings in insolvency, of actions to prevent or abate a nuisance; also, of all
9 matters of probate, and, also, of divorce and for annulment of marriage, and
10 all such special cases and proceedings as are not otherwise provided for. And
11 said Court shall have the power of naturalization, and to issue papers there-
12 for. They shall have appellate jurisdiction in such cases arising in Justices'
13 and other inferior Courts in their respective counties as may be prescribed by
14 law. Said Courts shall be always open (legal holidays and non-judicial days
15 excepted), and their process shall extend to all parts of the State. Said
16 Courts, and their Judges, shall have power to issue writs of mandamus, cer-
17 tiorari, prohibition, quo warranto, and habeas corpus, on petition by or on
18 behalf of any person in actual custody, in their respective counties. Injunc-
19 tions and writs of prohibition may be served on legal holidays and non-judi-
20 cial days.]

Mr. Cronch offered the following ~~amendment~~:

Insert after "State" in line 15 the following:

Provided: That all actions for the recovery of the possession of, quieting the title to, or for the enforcement of liens upon

20)

real estate shall be commenced in the county in which the real estate, or any part thereof, affected by such action or actions is situated" adopted.

~~Sydney~~ Mrs Harvey offered the following amendment:—

Insert after the word "be" in line 19 the words "issued and" adopted.

The amendment of the committee as amended was concurred in

Sec. 6.

The Committee recommended the following:

21)

[SEC. 6. There shall be in each of the organized counties, or cities and counties of the State, a Superior Court, for each of which at least one Judge shall be elected by the qualified electors of the county, or city and county, at the general State election; *provided*, that until otherwise ordered by the Legislature, only one Judge shall be elected for the Counties of Yuba and Sutter, and one for the Counties of El Dorado and Alpine; *and, provided*, that in the City and County of San Francisco there shall be elected twelve Judges of the Superior Court, any one or more of whom may hold Court. There may be as many sessions of said Court, at the same time, as there are Judges thereof. The said Judges shall choose from their own number a presiding Judge, who may be removed at their pleasure. He shall distribute the business of the Court among the Judges thereof, and prescribe the order of business. The judgments, orders, and proceedings of any session of the Superior Court, held by any one or more of the Judges of said Courts, respectively, shall be equally effectual as if all the Judges of said respective Courts presided at such session. In each of the Counties of Sacramento, Los Angeles, Sonoma, and Alameda, there shall be elected two such Judges. The term of office of Judges of the Superior Courts shall be six years, from and after the first Monday of January next succeeding their election; *provided*, that the twelve Judges of the Superior Court, elected in the City and County of San Francisco at the first election held under this Constitution, shall, at their first meeting, so classify themselves, by lot, that four of them shall go out of office at the end of two years, and four of them shall go out of office at the end of four years, and four of them shall go out of office at the end of six years, and an entry of such classification shall be made in the minutes of the Court, signed by them, and a duplicate thereof filed in the office of the Secretary of State. The first election of Judges of the Superior Courts shall take place at the first general election held after the adoption and ratification of this Constitution. If a vacancy occur in the office of Judge of a Superior Court, the Governor shall appoint a person to hold the office until the election and qualification of a Judge to fill the vacancy, which election shall take place at the next succeeding general election, and the Judge so elected shall hold office for the remainder of the unexpired term.]

22)

Mr Campbell offered the following amendment:

Add to section 6. At the first election under this Constitution a separate ballot box shall be provided for the reception of votes for Justices of the Supreme Court and Judges of the Superior Courts and they shall be voted for upon ballots distinct from those used for the election of other officers.

Rejected.

Mr Larkin offered the following:

strike out the words. "~~and~~ "and one for the counties of El Dorado and Alpine".

adopted.

Mr McCommas offered the following ~~amendment~~:

23)

insert after "Sonoma" in line 16. the words "Santa Clara"

adopted.

Mr Hitchcock offered the following ~~amendment~~ — add in line 16 after "Sacramento" the word "San Joaquin"

Messrs. Walters, Holmes, Dunlap Shoemaker and Baerstecker demanded the previous question which was ordered by the Convention.

Upon the adoption of the amendment by Mr Hitchcock the ayes and noes

24)

were demanded by Messrs. White, Wyatt, Joyce, Mitte & Freeman.

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

25

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

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

Ayes 77

Noes 28

5 28
6
7

26 The amendment of the Committee as amended was concurred in

Sec. 8

The Committee recommended the following:

[SEC. 8. A Judge of any Superior Court may hold a Superior Court in any county, at the request of a Judge of the Superior Court thereof, and upon the request of the Governor it shall be his duty so to do. But a cause in a Superior Court may be tried by a Judge pro tempore, who must be a member of the bar, agreed upon in writing by the parties litigant or their attorneys of record, approved by the Court, and sworn to try the cause.]

Concurred in.

Sec. 11

The Committee recommended the following:

271

Dunn

[SEC. 11. The Legislature shall determine the number of Justices of the Peace to be elected in townships, incorporated cities and towns, or cities and counties, and shall fix by law the powers, duties, and responsibilities of Justices of the Peace; *provided*, such powers shall not in any case trench upon the jurisdiction of the several Courts of record, except that said Justices shall have concurrent jurisdiction with the Superior Courts in cases of forcible entry and detainer, where the rental value does not exceed twenty-five dollars per month, and where the whole amount of damages claimed does not exceed two hundred dollars, and in cases to enforce and foreclose liens on personal property when neither the amount of liens, nor the value of the property amounts to three hundred dollars.]

Concurred in

Sec 14

The Committee recommended the following:

~~and adopted:~~

[SEC. 14. The Legislature shall provide for the election of a Clerk of the Supreme Court, County Clerks, District Attorneys, Sheriffs, and other necessary officers, and shall fix by law their duties and compensation, which compensation shall not be increased or diminished during the term for which they shall have been elected. County Clerks shall be ex officio Clerks of the Courts of record in and for their respective counties, or cities and counties. The Legislature may also provide for the appointment, by the several Superior Courts, of one or more Commissioners in their respective counties, or cities and counties, with authority to perform Chamber business of the Judges of the Superior Courts, to take depositions, and perform such other business connected with the administration of justice as may be prescribed by law.]

Concurred in.

28) Wise

Notice.

I hereby give notice that I will on tomorrow move to reconsider the vote by which the Convention adopted a section to be added to Sec. 6, as follows

Belcher.

Sep. 17

The Committee recommend the following:

[SEC. 17. The Justices of the Supreme Court and Judges of the Superior Courts shall severally, at stated times during their continuance in office, receive from the State treasury, for their services, a compensation which shall not be increased or diminished during the term for which they shall have been elected. During the term of the first Judges elected under this Constitution, the annual salaries of the Justices of the Supreme Court shall be six thousand dollars each. Until otherwise changed by the Legislature, the Superior Court Judges shall receive an annual salary of thirty-five hundred dollars each, payable quarterly, except the Judges of the City and County of San Francisco, and the Counties of Alameda, San Joaquin, Los Angeles, Santa Clara, Sacramento, and Sonoma, which shall receive four thousand five hundred dollars each.]

Mr. Cross offered the following amendment:-

24)

Insert in line 11 after "Sacramento" the word "Nevada"

Upon which the ayes and noes were demanded by Messrs White, Swasey, Little, Heiskell & Walker of Volusia

The roll was called and the amendment adopted by the following vote,

30)

Kies

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

Ayes 69

Noes 41

40
1

311

Mr Steadman offered the following amendment.—

DESTRUCTION

32

Amend Section 17 by striking out all after the word "elected" in the fifth line and inserting as follows—

During the term of the first Judges elected under this Constitution, the annual salaries of the Justices of the Supreme Court shall be five thousand dollars each. The Superior Judges shall be divided into four classes; those of the city and county of San Francisco, and of the Counties of Alameda San Joaquin, Los Angeles, Santa Clara Sacramento, and Sonoma shall constitute the first class and shall receive an annual salary of four thousand dollars payable quarterly; those of the Counties of Butte, El Dorado, Amador, Colusa, Contra Costa, Humboldt, Mendocino, Monterey, Napa, Nevada, Placer, Santa Cruz, Solano, Tulare, Kern, Yolo, Yuba and Sutter jointly and San Bernardino, shall constitute the second class, and shall receive an annual salary of three thousand five hundred dollars each payable quarterly; those of the Counties of Calaveras, Fresno, Lake, Marin, Merced, Plumas, San Benito, San Luis Obispo, San Mateo, Santa Barbara, Sierra, Shasta, Siskiyou, Stanislaus, Tehama, Tuolumne and Ventura

shall constitute the third class, and receive an annual salary of three ~~thousand~~ dollars each payable quarterly and those of all other counties of the State, not above enumerated, shall constitute the fourth class and receive an annual salary of two thousand dollars each payable quarterly.

~~Fletcher~~

adjournment

at four o'clock and fifty five minutes P.M. on motion of Mrs Stevenson the convention adjourned.

2/11/79