1)

In Convention
Assembly Chamber
State Capitol
Sacramento
Wednesday Feb. 19/79

Convention met pursuant to adjournment

President Hoge in the Chair

Roll called and the following Members were absent.

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	57		SHAFTER	84	
AYERS	2		FILCHER	68		LAVIGNE	58		SHOEMAKER		
BARBOUR	3		FINNEY			LEWIS	59		SHURTLEFF	85	
BARNES			FREEMAN	32		LINDOW			SMITH of Santa Clara.	86	
BARRY	4		FREUD	33		MANSFIELD	60		SMITH of Fourth District.	87	
BARTON	5		GARVEY	34		MARTIN of Alameda.			SMITH of San Francisco.	88	
BEERSTECHER	6		GLASSCOCK	35		MARTIN of Santa Cruz.	61		SOULE	89	
BELCHER	7/8		GORMAN	36		McCALLUM	62		STEDMAN	90	
BELL			GRACE	124		McCOMAS	63		STEELE		
BERRY			GRAVES			McCONNELL	64		STEVENSON	91	
BIGGS	9		GREGG			McCOY	65		STUART	92	
BLACKMER	10		HAGER	37		McFARLAND	120		SWEASEY	93	
BOGGS	11		HALE			McNUTT	66		SWENSON	94	
BOUCHER	12		HALL	38		MILLER			SWING	95	
BROWN	13		HARRISON	39		MILLS	67		TERRY		
BURT	14		HARVEY	40		MOFFAT	68		THOMPSON	96	
CAMPBELL	15		HEISKELL	122		MORELAND	69		TINNIN	97	
CAPLES	16		HEROLD	41		MORSE	70		TOWNSEND	98	
CASSERLY	17		HERRINGTON	42		MURPHY			TULLY	99	
CHAPMAN	18		HILBORN	43		NASON	71		TURNER	100	
CHARLES	19		HITCHCOCK	44		NELSON	127		TUTTLE	101	
CONDON	20		HOLMES	45		NEUNABER	72		VACQUEREL	102	
COWDEN	21		HOWARD of Los Angeles.	123		NOEL	73		VAN DYKE	103	
CROSS	22		HOWARD of Mariposa and Merced.	46		O'DONNELL			VAN VOORHIES	104	
CROUCH	23		HUESTIS	47		OHLEYER	74		WALKER of Marin.	105	
DAVIS	24		HUGHEY	48		O'SULLIVAN	75		WALKER of Tuolumne.	106	
DEAN	25		HUNTER	49		OVERTON			WATERS	107	
DOWLING	26		INMAN	50		PORTER	76		WEBSTER	108	
DOYLE	27		JOHNSON	51		PROUTY	77		WELLER	121	
DUDLEY of San Joaquin and Amador.			JONES	125		PULLIAM	78		WELLIN	109	
DUDLEY of Solano.			JOYCE	52		REDDY			WEST	110	
DUNLAP	116		KELLY	53		REED	79		WICKES	111	
EAGON			KENNY	54		REYNOLDS	119		WHITE	112	
EDGERTON			KEYS			RHODES	80		WILSON of Tehama.	113	
ESTEY of Contra Costa and Marin.	28		KLEINE	126		RINGGOLD	81		WILSON of First District.		
ESTEE of First District.	29		LAINE	55		ROLFE	82		WINANS		
EVEY	30		LAMPSON	6		SCHELL			WYATT	114	
FARRELL	31		LARKIN	56		SCHOMP	83		MR. PRESIDENT	115	

121
2
3
5
6

AYES_____

NOES_____

3)

Leave of absence

Leave of absence for four days was granted to Mrs. Dudley of Solano.

On motion of Mrs. Burkhart the reading of the journal was dispensed and the same approved.

Reports

By Mrs. Ayers from the committee on Reporting and Printing, reported as correctly engrossed: Amendment No. 503. Judicial Department - amendment - No 510. Revenue and taxation.

Noticed

4)

Notice for an amendment to Rule 33.

I hereby give notice that I will, to-
-morrow, move to amend Rule 33, govern-
-ing the course of business in Convention.

O'Sullivan

Reconsideration

Mr. Errington in accor-
dance with notice moved
to reconsider the vote by
which the article on Educa-
tion was ordered engrossed.

Mr. Walters moved to lay the
motion to reconsider on the
table, upon which the
ayes and noes were
demanded by Messrs

Bernstein, O'Sullivan, Tully, Harrington and Welles.

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

AYES 47

NOES 72

46 71
47 72

Messrs. West, Watts, White, Moreland and Brown demanded the previous question which was ordered by the convention upon the motion to reconsider the ayes and noes were demanded by Messrs Beerstecher, O'Sullivan, Cross, Vacquerel and Smith of 4th District.

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

Ayes 70

Noes 53

1/70 1/53

9)

Mr. Harrington moved

sider the vote, by which the Convention adopted the amendment of the Committee of the Whole to section six, of the article on education.

the reconsideration prevailed.

Mr Harrington offered the following amendment.

Sec 6 on Education
Amend the section as follows:
Strike out the words "normal school" in line 2 and add and insert the words "The State Normal School and such additional State Normal Schools as the Legislature shall provide" after the word "schools" first occurring in line 2

Rejected

Mr. Beerstecher moved to ~~[illegible]~~ strike out the words "and Grammar" in the 6th line. where they occur the second time

10)

Messrs. Walker of Tolumne Waters, Smith 4th Dist. Heiskell and Moreland demanded the previous question, which was ordered by the convention.

Upon the adoption of the amendment of Mr. Beerstecher the ayes and noes were demanded by Messrs. Beerstecher, Wellin, Burton, ayers and O'Sullivan.

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

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

AYES 64

NOES 60

Paired McCoy-aye - with McConnell - no.

Ayes concurring in the
Amendment of Committee
as amended the ayes and
noes were demanded by
Messrs Watts, Beersheba,
McCommas, Hilborn and
Holmes.

The roll was called
and ~~the amendment~~ the Convention
refused to concur in
~~Conv~~ the amendment by
the following vote:

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

Ayes 47

Noes 84

14) The article was ordered engrossed for a second reading.

General file.

Amendment No. 3-32

Scheduled.

Committee amendments:

~~Strike~~

Sec. 2

The committee recommended the following amendment:

[SEC. 2. That all recognizances, obligations, and all other instruments entered into or executed before the adoption of this Constitution to this State, or to any subdivision thereof, or any municipality therein, and all fines, taxes, penalties, and forfeitures due or owing to this State, or any subdivision or municipality, and all writs, prosecutions, actions, and causes of action, except as herein otherwise provided, shall continue and remain unaffected by the adoption of this Constitution. All indictments or informations which shall have been found, or may hereafter be found, for any crime or offense committed before this Constitution takes effect, may be proceeded upon as if no change had taken place, except as otherwise provided in this Constitution.]

15) Kiu

Concurred in

Sec. 4

The committee recommended the following

~~amendment~~

[SEC. 4. The Superintendent of Printing of the State of California shall, at least thirty days before the first Wednesday in May, eighteen hundred and seventy-nine, on such terms as may be reasonable, select and contract with one newspaper proprietor in each county in this State, in which a newspaper is published, for the publication and issuance once a week for two successive weeks next before said election in their respective papers, as a supplement thereto, the printed copies of this Constitution as hereinafter provided. The circulation of such papers shall be taken into consideration in making such contracts and selection, and the papers so selected shall issue a number of such supplements equal to the circulation of such papers in this State. In counties containing property of an assessable valuation of ten million dollars or over, not more than three such papers may be so selected. The Superintendent of Printing shall cause to be printed and delivered to the newspapers so selected, in due time for publication thereof, a number of such supplements equal to twice the State circulation of such papers. The Governor shall issue his proclamation, giving notice of the election for the adoption or rejection of this Constitution, at least thirty days before the said first Wednesday of May, eighteen hundred and seventy-nine, and the Boards of Supervisors of the several counties shall cause said proclamation to be made public in their respective counties, and general notice of said election to be given at least fifteen days next before said election.]

16) Mr. Websters offered the following amendment:—

Strike out all down to and including the word "papers" where it occurs in the 15th line, and insert the following.

"The Superintendent of Printing of the State of California shall at least thirty days before the first wednesday in May A.D. 1879 cause to be printed at the State printing office, in pamphlet form, simply stitched, as many copies of this constitution as there are registered voters in this state, and mail one copy thereof

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to the Post-Office address of each registered voter;

Provided - any copies not called for ten days after reaching this delivery office, shall be subject to general distribution by the several Postmasters of the State."

adopted.

The amendment of the Committee as amended was concurred in.

Sec. 6

The Committee recommended the following amendment:

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[SEC. 6. The Clerks of the several counties in the State shall, at least five days before said election, cause to be delivered to the Inspectors of Elections, at each election precinct or polling place in their respective counties, suitable poll-books, forms of return, and an equal number of the aforesaid ballots, which number, in the aggregate, must be ten times greater than the number of voters in the said election precincts or polling places. The returns of the number of votes cast at the Presidential election in the year eighteen hundred and seventy-six shall serve as a basis of calculation for this and the preceding section; *provided*, that the duties in this and the preceding section imposed upon the Clerk of the respective counties shall in the City and County of San Francisco be performed by the Registrar of Voters for said city and county.]

Mr. Blackmer offered the following amendment:

Insert before "Poll books" in line 4 the word "Registers"

adopted

Committee amendment as amended concurred in.

Sec. 8.

The Committee recommended the following

19

[SEC. 8. The officers of the several counties of this State, whose duty it is, under the law, to receive and canvass the returns from the several precincts of their respective counties, as well as of the City and County of San Francisco, shall meet at the usual places of meeting for such purposes on the first Monday after said election. If, at the time of meeting, the returns from each precinct in the county in which the polls were opened have been received, the Board must then and there proceed to canvass the returns; but if all the returns have not been received, the canvass must be postponed from day to day until all the returns are received, or until six postponements have been had, when they shall proceed to make out returns of the votes cast for and against the new Constitution; and the proceedings of said Boards shall be the same as those prescribed for like Boards in the case of an election for Governor. Upon the completion of said canvass and returns, the said Board shall immediately certify the same, in the usual form, to the Governor of the State of California.]

Enacted in.
Sec. 10
The committee recommended the following amendment.—

[SEC. 10. In order that future elections in this State shall conform to the requirements of this Constitution, the term of all officers elected at the first election under the same shall be, respectively, one year shorter than the terms as in this Constitution provided; and the successors of all such officers shall be elected at the last election before the expiration of the terms as in this section provided. The first officers chosen after the adoption of this Constitution shall be elected at the time and in the manner now provided by law.]

Mr Moreland offered the following amendment:—

add to section:

"Judicial Officers and the Superintendent of Public Instruction shall be elected at the time and in the manner that state officers are elected"

adopted

Mr Merrington offered the following amendment:—

Amend Sec 10 as follows

Add after end of Sec the following after word "Law"

And the first term of all county officers so elected shall commence at the close of the term as now fixed by Statute of their respective predecessors in office

Rejected

21 ✱

The amendment of the committee as amended was concurred in.

Sec. 11

The committee recommended the following amendment:

[SEC. 11. This Constitution shall take effect and be in force on and after the fourth day of July, eighteen hundred and seventy-nine, at twelve o'clock meridian.]

Mr. Morland offered the following amendment:

Add to section. "So far as it relates to the election of the officers named in this Constitution, and those who have been heretofore provided for, and not prohibited or superseded by this constitution, but as to all other matters and things the same shall take effect and be in force on the first day of Feb. 1880 at 12 o'clock M.

22)

Recess

The hour having arrived the Convention took a recess till 2 o'clock P.M.

Afternoon Session

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

President Hoye in the Chair.

Quorum present.

Amendment No. 532 - resumed

The amendment of Mr. Borland was withdrawn and Mrs. Estes offered the following:

add at end of Section: "so far as the same relates to the election of all officers heretofore provided for by laws, and who are not named or provided for in this constitution, and also such officers who are named in this constitution

The commencement of the terms of officers and the meeting of the Legislature. In all other respects and for all other purposes this Constitution shall take effect on the first day of Jan. 1880 at 12. o'Clock M.

adopted.

The amendment of the committee as amended was concurred in.

New Section.

By Mr Van Dyke.

24)

Amend by adding the following section

Sec 12 Immediately after the adoption of this Constitution the Governor shall appoint three persons, learned in the law, as Commissioners, whose duty it shall be to carefully examine the mining Codes and General laws of this State and prepare such amendments thereto or any portion thereof as may be necessary to adapt the same to the provisions of this Constitution and ~~report~~ submit a Report of their work to the Legislature first to assemble under this Constitution, during the first week of its session.

The said Legislature shall provide for defraying the expenses of such Commission.

25)

Mr. White offered the following amendment:

Provided the expense of such Congress shall not exceed five thousand dollars.

Rejected.

The main section was rejected.

Mr. Mazer offered the following:

"Sec. - All laws relative to the present judiciary system of the state shall be applicable to the judiciary

system created by this constitution, unless changed by the Legislature adopted."

Mr. Reynolds offered the following amendment to Sec. 5.

add as follows:-

"The Secretary of State is hereby authorized and required to furnish the Superintendent of State printing a sufficient quantity of the legal ballot papers, now on hand to carry out the provisions of this Section."

(27)

adopted.

Messrs. Murphy, Brown Doyle, Mulley and Hanlis demanded the previous question which was ordered by the Convention.

The article as amended was ordered engrossed for a second reading

Amendment No. 534 Boundary.

Mr. Roy offered the following amendment.

28)

insert after "also" the word "including" adopted

The article as amended was ordered engrossed for a second reading.

Amendment no 536 - Distribution of powers:

Sec. 1

The committee recommended the following:

[SEC. 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 as in this Constitution is expressly directed or permitted.]

Amended in

The committee recom-

29

Amended that section two be stricken out

Concurred in

The article as amended was ordered engrossed, for a second reading.

Amendment No 5-33.

State Indebtedness.

The committee recommended that the words "Judicial District" be stricken out, and insert the words, "County, or city and county."

Concurred in.

30

The article was ordered engrossed for a second reading.

Amendment No 3-35

Miscellaneous Subjects.

Committee amendments read.

Sec. 2.

The committee recommended the following:

[SEC. 2. Any citizen of this State who shall, after the adoption of this Constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it, or who shall act as second, or knowingly aid or assist in any manner those thus offending, or engage in a prize fight, shall not be allowed to hold any office of profit, or to enjoy the right of suffrage under this Constitution.]

Mr. Cross moved to strike out the words: "or engage

311

in a prize fight.

adopted.

Committee amendment as amended concurred in.

Sec. 7

The committee recommended the following amendment:

[SEC. 7. No contract of marriage, if otherwise duly made, shall be invalidated for want of conformity to the requirements of any religious sect.]

Concurred in.

Sec 11

The committee recommended the following amendment

[SEC. 11. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage, persons convicted of bribery, perjury, forgery, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elections and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult or other improper practice.]

32)

Mrs. O'Sullivan moved to insert after "forgery" the word "malfeasance" adopted.

The committee amendment as amended was concurred in

Sec 15

The committee recommended the following amendment—

[SEC. 15. Mechanics, artisans, laborers, material men, and miners shall have liens upon the building, structure, mine, or other improvement upon which they have performed labor or supplied material, for the value of the work done or material furnished. And the Legislature shall provide by law for the speedy and efficient enforcement of such liens, making such building, structure, mine, or other improvement, and the owner thereof, responsible for such liens notwithstanding any payment, settlement, or contract made by him with contractors or sub-contractors before such liens have been paid; *provided*, that such claim of lien shall be filed in the office of the County Recorder within sixty days after the completion of such building, structure, or work, or the furnishing of such material.]

33/

Mr Herrington offered the following amendment:-

Strike out the word "liens" in line 7 and insert "value of work done or material furnished."

Messrs. Bigg, Hanks, Davis, Estes and McConnell demanded the previous question

The Convention refused to order the main question put.

The amendment of Mr. Herrington was adopted

34/

Mr Van Dyke moved to strike out the words "and the owners thereof" in line 7 and line 8 strike out "him" and insert "the owner" adopted.

Mr. Ayers offered the following amendment: insert before "building" in line 2 the word "crop"

Messrs. Murphy, Hunter, Tully, Willis and Tuttle, demanded the previous question which was ordered by the con-

vention.

~~Adopted.~~

upon the adoption of the amendment of the ayers. the ayes and noes were demanded by Messrs Estee, ayers, Hilborn, Barton and Prouty.

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

361

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

Ayes 74

Noes 72

39 28
40 22
41 71
42

37

Upon concurring in the amendments the Committee amended the ayes and noes were demanded by Messrs. Barbour, Grace, Doyle, Hunt and Kelley

The Roll was called and the Convention refused to concur by the following vote:

38

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

AYES 39

NOES 76

40 75

39 76

Sec. 16

The committee recommend ~~the following~~ that Section 16 be stricken out.

at five o'clock and 17 minutes P.M. Mr. Walker of Wilmington moved to adjourn, upon which the ayes and noes were demanded by Messrs. Freud, McCullens, Boyce, White and Condon.

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

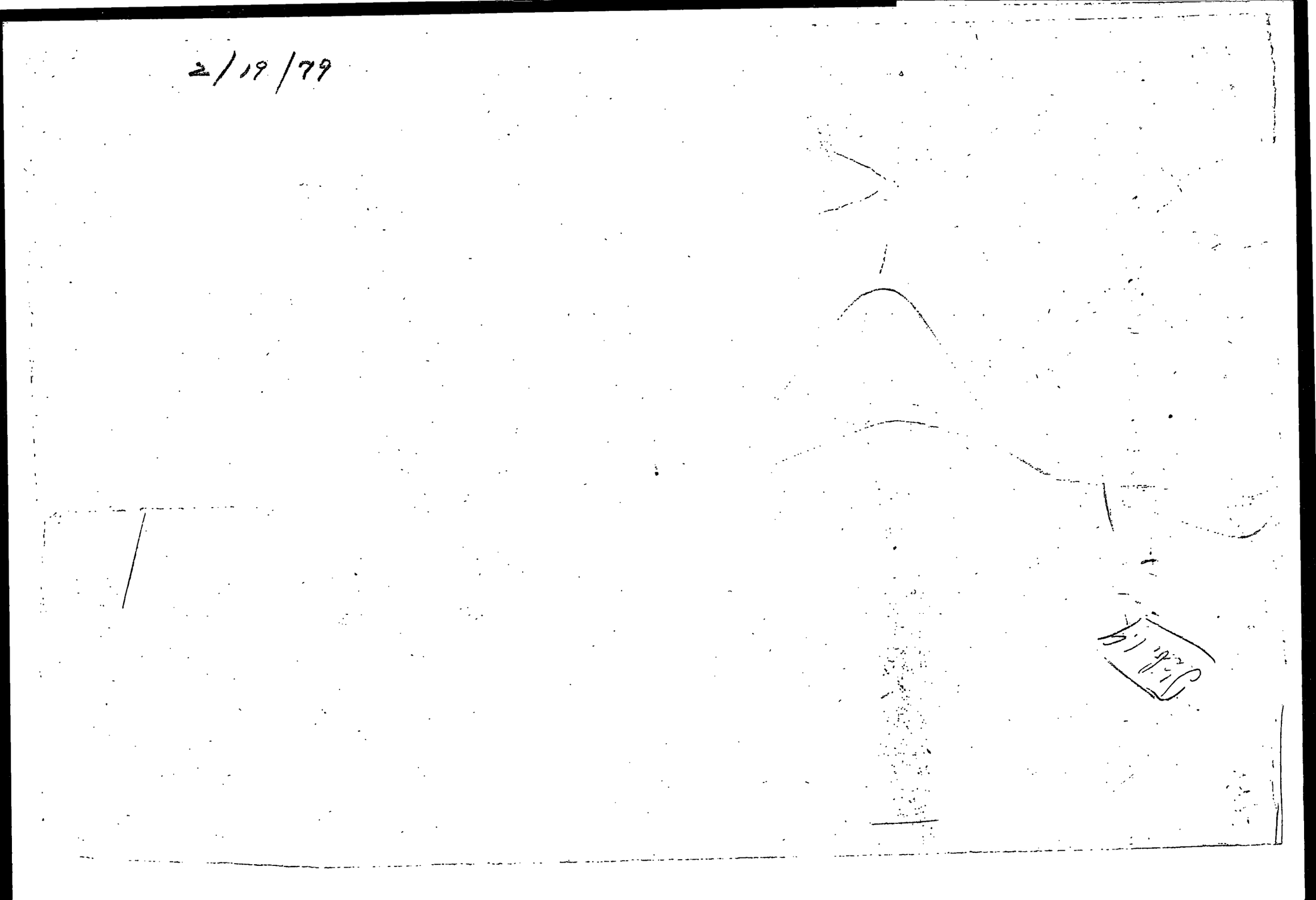
Roll-Call of Delegates to the Constitutional Convention, 1878.

Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.
ANDREWS		1	FAWCETT			LARUE	30		SHAFTER	45	
AYERS	1		FILCHER	61	47	LAVIGNE	01		SHOEMAKER		
BARBOUR		2	FINNEY			LEWIS			SHURTLEFF	46	
BARNES			FREEMAN	18		LINDOW			SMITH of Santa Clara.		42
BARRY		3	FREUD		15	MANSFIELD		29	SMITH of Fourth District.	47	
BARTON	2		GARVEY	19		MARTIN of Alameda.			SMITH of San Francisco.	48	
BEERSTECHER	3		GLASSCOCK			MARTIN of Santa Cruz.	32		SOULE		43
BELCHER			GORMAN		16	McCALLUM		20	STEDMAN	49	
BELL	4	5	GRACE	20		McCOMAS		31	STEELE		
BERRY			GRAVES			McCONNELL		36	STEVENSON		44
BIGGS		4	GREGG			McCOY			STUART	50	
BLACKMER	5		HAGER	21		McFARLAND	33		SWEASEY	51	
BOGGS	6		HALE			McNUTT	34		SWENSON		45
BOUCHER		5	HALL	22		MILLER			SWING	52	
BROWN	7		HARRISON		17	MILLS		32	TERRY		
BURT	8		HARVEY	23		MOFFAT		32	THOMPSON		46
CAMPBELL	9		HEISKELL	24		MORELAND		34	TINNIN	53	
CAPLES		6	HEROLD	25		MORSE		28	TOWNSEND		
CASSERLY	10		HERRINGTON		18	MURPHY		36	TULLY	54	
CHAPMAN		7	HILBORN			NASON	35		TURNER	55	
CHARLES	11		HITCHCOCK	26		NELSON		37	TUTTLE		47
CONDON		8	HOLMES	27		NEUNABER	36		VACQUEREL	56	
COWDEN			HOWARD of Los Angeles.			NOEL			VAN DYKE		48
CROSS	12		HOWARD of Mariposa and Merced.		19	O'DONNELL			VAN VOORHIES		
CROUCH	13		HUESTIS		20	OHLEYER		38	WALKER of Marin.	57	
DAVIS		9	HUGHEY			O'SULLIVAN	07		WALKER of Tuolumne.	58	
DEAN		10	HUNTER		21	OVERTON			WATERS		49
DOWLING	14		INMAN		22	PORTER	38		WEBSTER		50
DOYLE	15		JOHNSON		23	PROUTY		39	WELLER		51
DUDLEY of San Joaquin and Amador.			JONES	28		PULLIAM	09		WELLIN		52
DUDLEY of Solano.			JOYCE		24	REDDY			WEST		53
DUNLAP	16		KELLY		25	REED	40		WICKES		54
EAGON			KENNY		26	REYNOLDS	41		WHITE		55
EDGERTON			KEYS			RHODES		40	WILSON of Tehama.	59	
ESTEY of Contra Costa and Marin.	17		KLEINE	29		RINGGOLD		41	WILSON of First District.		
ESTEE of First District.		11	LAINE			ROLFE	42		WINANS		
EVEY		12	LAMPSON		27	SCHELL	43		WYATT	60	
FARRELL		13	LARKIN		28	SCHOMP	44		Mr. PRESIDENT	61	

Ayes 61

Noes 14

57
60 55
54

41)

and at five o'clock
and 25 minutes P. M.
The President declared
the convention ad-
journed.)