1

On Convention
Assembly Chamber
State Capitol
Sacramento
Friday Feb. 21st 1879

Convention met pursuant to adjournment

President Hoge in the chair

The Roll was 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	113		FAWCETT			LARUE	54		SHAFTER	82	
AYERS	123		FILCHER	26		LAVIGNE	55		SHOEMAKER		
BARBOUR	1		FINNEY			LEWIS	56		SHURTLEFF	83	
BARNES			FREEMAN	27		LINDOW	57		SMITH of Santa Clara.	84	
BARRY	2		FREUD	28		MANSFIELD	58		SMITH of Fourth District.	85	
BARTON	3		GARVEY	29		MARTIN of Alameda.			SMITH of San Francisco.	86	
BEERSTECHER	4		GLASSCOCK	30		MARTIN of Santa Cruz.	59		SOULE	87	
BELCHER	5		GORMAN	31		McCALLUM	60		STEDMAN	88	
BELL	6		GRACE	120		McCOMAS	61		STEELE		
BERRY			GRAVES			McCONNELL	62		STEVENSON	89	
BIGGS	7		GREGG			McCOY	63		STUART	90	
BLACKMER			HAGER	32		McFARLAND	125		SWEASEY	91	
BOGGS			HALE	124		McNUTT	64		SWENSON	92	
BOUCHER	8		HALL	33		MILLER	124		SWING	93	
BROWN	9		HARRISON	34		MILLS	65		TERRY		
BURT	10		HARVEY	35		MOFFAT	66		THOMPSON	94	
CAMPBELL	11		HEISKELL	36		MORELAND	67		TINNIN	95	
CAPLES	12		HEROLD	37		MORSE	68		TOWNSEND	96	
CASSERLY	13		HERRINGTON	38		MURPHY			TULLY	97	
CHAPMAN	14		HILBORN	39		NASON	69		TURNER	98	
CHARLES	15		HITCHCOCK	40		NELSON	70		TUTTLE	99	
CONDON	16		HOLMES	41		NEUNABER	71		VACQUEREL	100	
COWDEN			HOWARD of Los Angeles.	~~122~~		NOEL	72		VAN DYKE	101	
CROSS	17		HOWARD of Mariposa and Merced.	42		O'DONNELL			VAN VOORHIES	~~114~~	
CROUCH	18		HUESTIS	43		OHLEYER	73		WALKER of Marin.	102	
DAVIS	19		HUGHEY	44		O'SULLIVAN	74		WALKER of Tuolumne.	103	
DEAN	20		HUNTER	45		OVERTON			WATERS	116	
DOWLING	21		INMAN	46		PORTER	75		WEBSTER	104	
DOYLE	21		JOHNSON	47		PROUTY	76		WELLER	119	
DUDLEY of San Joaquin and Amador.			JONES	122		PULLIAM			WELLIN	105	
DUDLEY of Solano.			JOYCE	48		REDDY			WEST	106	
DUNLAP	115		KELLY	49		REED	119		WICKES	107	
EAGON	118		KENNY	50		REYNOLDS	77		WHITE	108	
EDGERTON	22		KEYS			RHODES	78		WILSON of Tehama.	109	
ESTEY of Contra Costa and Marin.	23		KLEINE	51		RINGGOLD	79		WILSON of First District.	117	
ESTEE of First District.	24		LAINE			ROLFE	112		WINANS		
EVEY	25		LAMPSON	52		SCHELL	80		WYATT	110	
FARRELL			LARKIN	53		SCHOMP	81		MR. PRESIDENT	111	

118
1
122
3
4

Ayes _____

Noes _____

3)

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

Petition

Mr. Prouty presented a petition from Amador Co. asking exemption of certain property from taxation

Laid on the table.

Reconsideration

Mr Wilson of 1st dist moved to reconsider the vote by which the article on Chinese was adopted.

Mr. West moved to lay

4)

the motion to reconsider on the table, upon which the ages and noes were demanded by Messrs Wilson of 1st Dist, Brown, Freud, Barton and Barry.

The roll was called and the motion to lay on the table prevailed by the following vote:

35

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

Ayes 76

Noes 47

6/ twice

Mr. Vacquerel moved to reconsider the vote by which the article on Miscellaneous subjects was ordered engrossed for a second reading

Mr. Waters moved to lay the motion on the table, upon which the ages and noes were demanded by messrs. Vacquerel, Lavigne, Willis, Kline and Dowling.

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

Ayes 58

Noes 56

8

Mr. Cross moved to take up the special orders, being resolutions to appoint a committee to prepare an address to the people of the State, so ordered.

Mr. Barry moved to take up the resolution of Mr. Cross.

Mr. McCullum offered the following substitute:

9

~~Amendment~~ by way of Substitute

Resolved, 1st. That a Committee be appointed in such manner as the Convention shall direct to prepare an address to the people, explaining the material amendments, proposed, and recommending the adoption of the new Constitution

2d That said Committee shall consist of nine members of this Convention.

~~3d That~~

McCallum

10)

Messrs. Inman, Jones, Campbell. West, & Webster demanded the previous question which was ordered by the convention.

Upon the adoption of the amendment of Mr McCallum the ayes and noes were demanded by Messrs McCallum, Brown, Tilley White and Gorman.

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

AYES 52

NOES 69

54 64
53 7
52 8
9

12)

Upon the adoption of the resolution of Mrs Cross the ayes and noes were demanded by Messrs Barry, Condon, Steadman McCoy, and Gorman

The roll was called and the resolution was rejected by the following vote.

13) Swing

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

Ayes 53

Noes 64

Paired – Swing – aye – with Barton – no

14)

Resolution

By Mr. Burstones.

Resolved,
That the President appoint 3 additional members upon the Committee on revision and adjustment,

~~Burstones~~

Laid over for one day

By Mr Hager.

Resolved
That the Committee on Revision & adjustment be allowed a clerk —

Referred to the Committee on Privileges and Contingent Expense

114(6)

Legislative Department.

Mr Shurtleff offered the following amendment to sec. 27:

"Any county, or city and county, containing a population greater than the number required for one congressional district shall be formed into one or more congressional districts, according to the population thereof, and any residue, after forming such district or districts, shall be attached, by compact adjoining Assembly districts, to a contiguous county or counties, and form a congressional district. In dividing a county, or city and county, into congressional districts no Assembly district shall be divided so as to form a part of more than one congressional district, and every such congressional district shall be composed of compact contiguous Assembly districts."

adopted.

Mr. Inman offered the following amendment to Sec 22

Strike out in lines 10 + 11 the words. "or Sick, or Disabled,"

adopted.

17)

Mr. Van Dyke offered the following amendment to Sec. 2.

in line 5 strike out the word "called"

adopted.

Mr. McCampbell offered the following amendment to Section 21

strike out in 3d line "any" and insert "this"

Rejected

Mr. Edgerton offered offered the following

18)

amendment to sec 21

strike out "Such" in line 4 ~~and insert after the word defalcation in lines 4 & 5 "of any public funds of this state"~~

~~Mr. Campbell offered the~~

adopted

Mr. West offered the following amend to section 23.

strike out "Eight" in 3 and insert "six"

upon which the ages and noes were

demanded by Messrs. Evey, Brown, Kenny, Stewart and Mason.

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

Ayes 26

Noes 95

94
93
95
93
94
95

21)

Messrs Tully, La Rue, Waters, Mansfield and Murphy demanded the previous question

The convention refused to order the main question

Mr. Van Dyke moved to amend sec 25 by striking out the 33 subdivision.

Rejected.

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 Hoge in the Chair.

Quorum present.

Mrs. Murphy in the chair.

Petition

Mrs. McFarland presented a petition of certain Ladies of Sacramento city asking for the right of Suffrage.

Laid on the table.

Resolution

By Mrs. Ried:

23)

Whereas,

The Sacramento river, the great natural highway of this State, so important for the transportation of the products of the Sacramento Valley, has for many years been filling up with debris and obstructions of other character, thus destroying the navigation of said river to an extent that large steamers are now entirely unable to navigate the waters of the upper Sacramento for a distance of one hundred and fifty miles, where ten years ago such steamers were engaged in carrying the products of a large area of country with such facilities for navigation as to insure to the great benefit of the producers; now entirely closed; and,

Whereas, from the rapidity with which the navigation of so much of said river has been rendered useless there can be no doubt but that in the course of a very few years the entire navigation of the said Sacramento river will be effectually closed, thus producing great inconvenience and distress to the entire producing classes now engaged in agricultural pursuits, therefore;

Resolved; That our Senators and Representatives in Congress be, and they are hereby requested, ~~and our Senators instruct ed~~ to use all honorable endeavors to procure the adoption of the amendment to the appropriation bill now pending before Congress introduced in the Senate by the Hon. A. A. Sargent

Mr Timmin moved to strike out the preamble.

Lost

The resolutions was adopted, and the Resolution ordered telegraphed to the Delegation

Reports.

By Mr. Hilborn

Mr President Your Committee on Mileage and Contingent expenses to whom was referred the Resolution of Judge Hayes authorizing the Committee on Revision and Adjustment to appoint ~~to allowed~~ a Clerk, herewith report the same back and recommend that it be adopted,

Hilborn
Chairman

The Report was recieved and the resolution adopted

By Mr. Ayers.

Mr. Ayers from the Committee on Reporting and Printing reported as correctly engrossed; amendment No. 514 - Waters and Water Rights - amendment No 523 Education - amendment No 515 - State Institutions - amendment No 178 - Harbors, Rivers, Waters and navigable streams. - amendment No 504 - Suffrage.

Special orders.

Resolutions relative to Official reporters taken up.

Mr. Condon moved to lay the resolutions on the table, upon which the ayes and nays were demanded by Messrs Reynolds, Wicks, Condon, Joyce and Brown.

The roll was called and the motion to lay on the table prevailed by the following vote:

28

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

59

AYES 59

NOES 55

paired Holmes aye with Townsend - no

Legislative Department resumed:—

Mr. McAguire offered the following amendment to section 12.

~~Provided~~ to insert in line 19 after the words ~~under church~~ "other control" the following:

"Provided, further, that those institutions receiving state aid, shall receive all orphans half orphans, or abandoned children, ~~or that~~ ~~Provided~~, or aged persons in indigent circumstances, directed to them by the state, and in case of a refusal on the part of any such institutions to receive such persons, the aid granted shall be forfeited

upon the adoption of the amendment the ayes and noes were

30.

demanded by messrs. Vacquerel, Stewart, Smith of Santa Clara, Herrington and Gorman.

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

31)

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

Ayes 23

Noes 93

32)

Messrs Waters, Dunlap, White, Harrison and Smith of Santa Clara demanded the previous question which was ordered by the convention

The roll was called and the article adopted as a part of the Constitution by the following vote:

33)

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	45		SHAFTER	68	
AYERS	2		FILCHER	26		LAVIGNE	46		SHOEMAKER		
BARBOUR	3		FINNEY			LEWIS		11	SHURTLEFF	69	
BARNES			FREEMAN			LINDOW			SMITH of Santa Clara.	70	
BARRY	4		FREUD	27		MANSFIELD	47		SMITH of Fourth District.	71	
BARTON	5		GARVEY	28		MARTIN of Alameda.			SMITH of San Francisco.	72	
BEERSTECHER	6		GLASSCOCK		4	MARTIN of Santa Cruz.	48		SOULE	73	
BELCHER	7		GORMAN	29		McCALLUM	49		STEDMAN	73	
BELL	8		GRACE	94		McCOMAS	50		STEELE		
BERRY			GRAVES		5	McCONNELL	51		STEVENSON	74	
BIGGS	9		GREGG			McCOY	52		STUART	75	
BLACKMER	10		HAGER	30		McFARLAND		12	SWEASEY		
BOGGS			HALE			McNUTT	53		SWENSON		
BOUCHER	11		HALL		6	MILLER	54		SWING	76	
BROWN	12		HARRISON	31		MILLS	55		TERRY		
BURT	13		HARVEY	32		MOFFAT	56		THOMPSON	77	
CAMPBELL	14		HEISKELL	33		MORELAND		13	TINNIN		18
CAPLES	15		HEROLD	34		MORSE	57		TOWNSEND	78	
CASSERLY		1	HERRINGTON	35		MURPHY	58		TULLY	79	
CHAPMAN	16		HILBORN			NASON	59		TURNER		19
CHARLES	17		HITCHCOCK		7	NELSON	93		TUTTLE	80	
CONDON	18		HOLMES			NEUNABER	60		VACQUEREL	81	
COWDEN			HOWARD of Los Angeles.			NOEL	61		VAN DYKE	82	
CROSS			HOWARD of Mariposa and Merced.	36		O'DONNELL			VAN VOORHIES		
CROUCH	19		HUESTIS	37		OHLEYER	62		WALKER of Marin.	83	
DAVIS	20		HUGHEY		8	O'SULLIVAN	63		WALKER of Tuolumne.		
DEAN	21		HUNTER	38		OVERTON			WATERS	84	
DOWLING			INMAN	39		PORTER	0	14	WEBSTER	85	
DOYLE	22		JOHNSON	40		PROUTY		15	WELLER	86	
DUDLEY of San Joaquin and Amador.			JONES		9	PULLIAM			WELLIN	87	
DUDLEY of Solano.			JOYCE	41		REDDY			WEST		
DUNLAP	23		KELLY		10	REED		16	WICKES	88	
EAGON		2	KENNY	42		REYNOLDS		21	WHITE	89	
EDGERTON		3	KEYS			RHODES	64		WILSON of Tehama.	90	
ESTEY of Contra Costa and Marin.	24		KLEINE			RINGGOLD	65		WILSON of First District.		20
ESTEE of First District.			LAINE			ROLFE	66		WINANS		
EVEY	25		LAMPSON	43		SCHELL	67		WYATT	91	
FARRELL			LARKIN	44		SCHOMP		17	MR. PRESIDENT	92	

Ayes ~~[illegible]~~ 94

Noes ~~[illegible]~~ 21

34)

The article was referred to the committee on Revision and adjustment.

Future amendments

The article read by sections.

Mr. McCallum moved to strike out ~~the~~ on line 2 section ~~[illegible]~~

"On the proposition for a Convention"

upon the adoption of the amendment the ayes and noes

357

were demanded by messrs McCullum, Brown, Grace, Belches and Gorman.

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

36)

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

Ayes 44

Noes 64

37)

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

Ayes 100

Noes 14

39

The article was referred to the Committee on Revision and Adjustment.

Notice

~~Mr. Judicial Dep~~

By Mr. Burbour

Mr President

I hereby give notice that I will on to-morrow move to reconsider the vote by which the Article on Legislative Department was adopted

Burbour

40)

Judicial Department.

The article read by sections.

Mr. Wilson of 4th Dist. offered the following amendment to Sec. 4 line 6. insert after "Delaines" "and in proceeding in insolvency and in actions to prevent or abate a nuisance" adopted.

Mr. Inman offered the following amend ~~to sec. 2~~

41)

to Section 2.

Substitute for section 2 of the article on Judicial Department

" Sec 2 The Supreme Court shall consist of a Chief justice and four associate justices. The presence of three justices shall be necessary for the transaction of business excepting such business as may be done at chambers, and the concurrence of three justices shall be necessary to pronounce a judgment."

Laine

Mr Ellzerton offered the following

42.

Amendment.

Amend section 2, by inserting after the word "Justice" in line where it first occurs in line (23) twenty three on page (2) two - the following - viz:
"All sessions of the Courts, whether in banc or in departments, shall be held at the Capital of the State"

~~Education.~~

Notice

By Mr. McCallum:-

Mr. President

Notice is hereby given that I will on to-morrow or as soon thereafter as the motion can be heard, move to reconsider the vote by which the Article on "Future Amendments" was adopted. Also to reconsider the vote by which the Convention refused to strike out the words "on the proposition for a convention" in the 5th line, of Section two.

McCallum

Adjourned

at five o'Clock and twenty minutes P. M.

Mr. Stewart moved that the convention adjourn till Monday Feb. 24th 1878 at 2 o'Clock P. M.

Mr. McCallum moved that the convention adjourn
Lost

The motion of Mr. Stewart prevailed
and at five o'clock & 30 minutes P.M. the convention adjourned till Monday Feb. 24th 1874 at two o'clock P.M.

2/21/79

(2/22 Did not convene
2/22 - Sunday)

Amendment to Sec. 2. Judicial Department,
by Mr Herrington —

The Supreme Court shall consist of six Justices one of whom shall be elected by them to act as Chief Justice; and a record of such election shall be made in the minutes of the Court in Bank. 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 Justices shall assign themselves by lot to the departments and a record of such assignment shall be made in the minutes of the Court in bank. The Justices shall be competent to sit in either department and may interchange with each other when from any cause a Justice is incompetent to sit in a case pending in his department. Each of the departments shall have 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 department, except such as may be done at chambers and the concurrence of two Justices shall

be necessary to pronounce a judgment. The Chief Justice shall apportion the business to the departments. All cases involving the constitutionality of a law of this State as being in conflict with the constitution thereof shall be tried in bank. Cases in which any former decision of the Supreme Court is overruled by either department shall be certified to the Court in bank and be argued therein and the decision of the Court in bank shall be final. 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 ~~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 department shall be given in writing and the grounds of the decision shall be stated. The Justices assigned to each department shall select one of their

member as presiding Justice In case of the absence of the Chief Justice from the place at which the Court in banc is held or his inability to act the associate Justices shall select one their own number to perform the duties and exercise the powers of the Chief Justice during such absence or inability to act. After the first assignment of the Justices to the departments at the expiration of their respective term ~~in case~~ or in cases of vacancy their successors shall be elected or appointed to fill the vacancy in the respective department

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McKay.

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