

# A P P E N D I X .

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IN THE ASSEMBLY.]

[SESSION OF 1853.

RULES AND ORDERS

OF THE

ASSEMBLY

OF THE

STATE OF CALIFORNIA.

ADOPTED JANUARY, 1853.

[GEORGE KERR, STATE PRINTER

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# R E P O R T

OF THE

## SELECT COMMITTEE OF THIRTEEN.

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The Committee of Thirteen, to whom was referred that portion of the Governor's Message recommending certain alterations in the State Constitution, respectfully beg leave to submit the following report :

They have given to this subject that consideration which the circumstances of their situation, and their limited means of investigation would allow.

Every attempt to change the fundamental laws of government must necessarily be regarded with jealousy and solicitude, and your committee cannot but feel the importance of the duty which has devolved upon them, and acknowledge their embarrassment, in recommending any plan for the correction of those evils and imperfections which, we conceive exist in our present Constitution.

Your committee are aware of the fact that many of the people of this State are opposed to any amendments whatever, both for the reason that they deprecate frequent changes in the organic structure of government, and because they look upon our Constitution as amply sufficient for the present wants of the State, and do not think the time has yet arrived, when experience shall have pointed out the errors of our present system, and directed the proper policy for us to adopt as a State.

On the other hand, it is urged with much plausibility and justice, that our present Constitution was adopted at a time when California was yet in embryo, and its framers could not, unless gifted with the power of divination, have foreseen the unexampled prosperity which she was destined so soon to attain, and consequently could not understand the wants of a State, which has in a few years, from comparative insignificance, become the goal for the enterprise and capital of the whole world, and is yet destined to overshadow her sister States of the Atlantic.

As we have increased in wealth and population, and extended our commercial relations, we have felt sensibly the influence of many restrictive

clauses in our Constitution, which have fettered and retarded the growing prosperity of the State.

The present impoverished condition of the treasury, and the acknowledged incapacity to sustain the credit of the State, and carry on the government without the imposition of ruinous and onerous taxation, which would drive capital from our shores to seek an investment elsewhere, have excited the fears of every one, and directed the attention of the public to some radical changes, which will obviate the evils which now threaten us.

We have carefully examined the recommendations of His Excellency, the Governor, and heartily concur with him in urging the amendments proposed.

The adoption of biennial for annual Sessions of the Legislature, would appear to be imperatively demanded by the peculiar condition of the State. Our territory is so extensive, that the new laws, and amendments of existing statutes, are not published and acted upon, before, in many instances, they are repealed. Such has been the history of California legislation, from the first State Legislature to the present time. Our volume of the laws of the last legislature is but just published. No doubt many of its enactments will be repealed or amended by the present Legislature, of which nothing will be known for a period of one year or more. It is thus impossible for the people to make themselves acquainted with their laws, or to know by what directions they are to be guided in matters affecting their most important interests. On the score of economy, as well as stability and certainty in our laws, your committee would earnestly recommend biennial sessions. It appears from the report of the Comptroller of State, that for the last three fiscal years, our aggregate receipts from all sources of revenue have amounted to \$700,777 79. The expenses of the Legislature during that time have amounted to the enormous sum of \$1,105,082 21. Our legislative expenses for the last three years have, therefore, exceeded our whole income during that period by the sum of \$404,304 42. We may safely calculate upon a saving of \$500,000 every alternate year, by exchanging the sessions of the Legislature from annual to biennial.

A change, however, so important as this, and which must necessarily require other and corresponding changes, can, in the opinion of this committee, best be effected by a convention of delegates elected by the people to revise the entire Constitution.

Another object to be accomplished by a new Constitution is the reduction of the number of District Judges in the State. Six Judges, well paid and well employed, might easily attend to all the District Court business of California. We might, in this respect, effect a saving of between thirty and forty thousand dollars per annum. The present incumbents are elected for a term of six years from the first day of last January. It is the opinion of able lawyers and eminent jurists that by no change in the Judicial Districts could the present incumbents be deprived of their salaries.

The great number of unnecessary offices with which the Constitution and the Treasury are burdened, might well be dispensed with. The vast and complicated machinery of government which our present Constitution imposes upon the people of this State, which might possibly be tolerated by a State with four or five millions of inhabitants, would, in the opinion of your

committee, be happily replaced by a form of government much more simple and economical, and better suited to our small and sparse population. Our whole Constitution is upon too grand a scale. Doubtless the minds of its framers were directed into a far futurity, which, by the golden light of the era of its formation, was brought before their mind's eye in deceitful proximity. Otherwise, we can scarcely imagine how such a crushing burden of useless and expensive forms—of vast and superfluous machinery—of costly names to satisfy unknown wants, and of functions dearly and annually purchased to do what nobody wished done, should have been strapped upon the backs of this and coming generations, to be borne by them through poverty and tribulation, as a rich and suitable gift from the Convention of 1849, to their distant posterity of the twentieth century. It has been customary for nations to incur debts in accomplishing objects which last through centuries, and enure to the benefit of future generations,—and such custom is deemed just,—but it is certainly quite a novel doctrine to burden a century with what is entirely useless to itself, that it may be transmitted to its successor in the hope that some use may there be found for it. Your committee would not be understood as casting any reflection upon the framers of the present Constitution. They committed an error common to Constitution makers, who think that by novel regulations they can subserve the true interests of the body politic for which they undertake to present a fundamental law. Fortunately for them, they may with truth say there was no body politic possessing interests to be consulted; and we may say for them that, while they extended their authority through time and over space, and directed it to every conceivable object, they yielded to the seductions of power as it is the weakness of man to yield, and made their will the commandment and the law, through time as long, and space as great, as it was presumed would be tolerated.

Your committee agree with His Excellency the Governor in the opinion that the last enumeration of the people of this State may without inconvenience be acted upon until the census of eighteen hundred and sixty is taken by the Federal Government. That which is just completed has cost the State at least one hundred thousand dollars. The census of eighteen hundred and fifty-five, required to be taken by the present Constitution, we have every reason to believe will be still more expensive. By a revision of the Constitution this unnecessary expenditure may be avoided, and perchance at a time too when the financial condition of the State will most require it.

The attention of your committee has also been directed to the spirit of dissatisfaction which exists in the southern and agricultural counties of the State, in consequence of the disparity between taxation imposed upon them, and their representation. While the people of this State feel the injustice which necessarily is done to the inhabitants of these counties, they are constrained to acknowledge the evil so much complained of, unless by a change in the Constitution, and the incorporation of principles which will leave the Legislature unfettered, and place in their hands the power of graduating taxes and representation upon a sound and equitable basis.

As another important reason for calling a Convention to revise the entire Constitution, your committee would refer to the provision in the present

instrument against contracting a State debt, except under such restrictions as render the borrowing of money by the State almost impossible. The effect of this provision, which prohibits an aggregate indebtedness of more than \$300,000, has been the contracting of a debt which, on the 15th December last, amounted to \$2,349,483 83. With such a practical operation, it may be reasonably doubted whether the prohibition is of any value, if indeed the indebtedness of the State has been legally contracted. The constitutionality of the various Acts for funding the State debt is, in the opinion of your committee, very questionable, as well as that of the various appropriation bills directing the Comptroller to draw upon an empty treasury-box. Comptroller's Warrants, drawn according to law, are neither more nor less than promissory notes given by the State, and made payable when there is money in the treasury. They create a present indebtedness, although the payment thereof may be deferred until the State has funds. Whether an indebtedness incurred by the State for a consideration advanced to it, other than money borrowed, is not such indebtedness as is prohibited by the Constitution, is worthy of serious consideration. It is very clear that any indebtedness, no matter how remote may be the time of its promised liquidation, is prohibited beyond the amount specified in the clause referred to. In the opinion of your committee, neither the character of the consideration advanced the State, as whether it consist in money borrowed, or furniture, stationery, or other property purchased, or services received; nor the time of liquidation, as whether the promise be to pay on demand, or after a period of twenty years or more, changes in any manner the operation of the Constitution in its limitation of the power of the Legislature respecting the creation of a State debt.

It has been argued that the expenses rendered necessary by the operation of the government created by the Constitution itself, must be regarded as being sanctioned by the Constitution, despite the prohibition of which we are treating. Your committee are acquainted with no *rule of interpretation* which authorizes them to *imply* the existence of a power, which is *expressly* denied in the most general and comprehensive terms. It is very true, there is a stringent necessity for arriving at the supposed power in some mode or other. The continuance of our State Government depends upon the power of the Legislature to incur debts, but that makes no advancement towards proving that the power under discussion is not absolutely prohibited by the Constitution. Besides, if the Legislature have, by necessary implication, the power of creating debts for the support of the government, it follows that the borrowing of money for such purpose, being the cheapest mode of payment, would constitute the most reasonable and proper exercise of the power. Yet, if California were to enter the money market, with proposals to borrow a million of dollars, who would lend it, with this clause of the Constitution staring the world in the face? Who would then have the boldness to avow that the borrowing a million of dollars by the State, to be applied to the maintenance of its government, and to defraying the expenses necessary to its very existence, is a power impliedly given by the Constitution to the Legislature, when by that instrument it is expressly taken away from them. It is very clear that this implied power would badly stand such a practical test. And it is equally clear that if the power cannot be implied

in favor of the creation of a debt, the consideration being money lent for the purchase at the cheapest rate, of things essential to the continuance of the government, still less can it be implied in favor of the creation of a debt, the consideration being the maintenance of the government in a manner less effective and much more costly. The reasons by which the argument in favor of this implied power is supported, apply with much more force in favor of the legality of borrowing money, despite the prohibitory clause of the Constitution, than in favor of the creation of a debt under the circumstances which have attended the existing one: because in no other manner can a State like California, which possesses a vast property, good credit, a great future and no money, so effectively and economically maintain its government, as by borrowing money for that purpose.

As we before said, the practical operation and grand result of the clause under discussion, is a debt of more than *two millions three hundred thousand dollars*. And your committee will add, that rarely, heretofore, has a State or individual purchased so little with so large a sum of money. But this result was inevitable, and might have been foreseen, as your committee, under a continuation of the system can easily foresee, and safely predict larger results of the same kind. The State must have what it necessarily requires at any price, else its government must come to a stand. The State has no money wherewithal to buy its necessaries. It cannot borrow money in Europe or New York, where it may be had at six per cent. per annum. It cannot devote its large domain of overflowed swamp lands to raising money, which in a few years might easily be repaid by moderate taxation. All its property, which is not money, is entirely useless as an article of exchangeable value. It can pay for what it is obliged to purchase, only by drafts upon a treasury which is empty, and enjoys the likelihood of remaining so for a number of years to come; consequently it pays a double or treble price for everything it buys, even for the services of its legislators and other officers. The seller does not expect to receive money from the treasury in honor of his draft thereon. He believes of a certainty that his draft will be converted into stocks, and the debt which the State owes him into a funded debt, payable twenty or thirty years hence, with interest at the rate of six or seven per cent. per annum. He calculates the price of such stock, and finds that the brokers, availing themselves of the advantage of a foreign market, of which the State is deprived by the present Constitution, can afford to purchase seven per cent. funds at fifty cents on the dollar, and are satisfied with fourteen per cent. per annum on their money, at a time when every other borrower in the State must pay at least three per cent. per month. According to this calculation, the State is forced to pay for everything it purchases, just double the price for which it might be bought for cash. In this way our present enormous debt has been created. Thus do we account for the very small benefit received for so large a sum of money. We may reasonably ask ourselves, if it would not be as well for the State to avail itself of its own credit and property to borrow money at a low rate of interest, and for a long time, as to be continually funding year after year, its promises to pay double prices, thereby enabling brokers to sell in the money market, at par value, the credit of the State, which to the State itself was worth only fifty cents on the dollar. Your committee, therefore, considering

the very questionable legality of the present mode of creating the State debt ; the unquestionable extravagance and wastefulness of the system, and the ruinous extent to which it must inevitably proceed, would respectfully urge the necessity of effecting a change in this objectionable and costly provision of the Constitution ; and that they regard such change, or some material modification thereof, as a good reason why the proposed question of calling a convention should be submitted to the people.

Your committee desire, also, to call your attention to our Judiciary System. While the present system is apparently sufficiently simple in its organization, and speedy justice is offered to litigants, still it is not free from imperfections. The Supreme Court of the State, is, by the Constitution, composed of but three Judges, two of whom are required to constitute a quorum ; in case of the sickness or absence of two, there might be a total failure of justice.

The duties of this Court are arduous and important, and the increase of litigation requires a corresponding increase of Judges. Under a late decision of the Judges of that Court, there is no power in the Governor or Legislature to provide for filling temporary vacancies occasioned by absence or otherwise ; and it may not unfrequently happen that the disqualification of Judges by interest or otherwise, will indefinitely postpone or defeat the rights of litigants. An increase of Judges from three to five, and the incorporation of a clause in the Constitution, authorizing the Governor to fill such vacancies would, in our opinion, greatly facilitate the transaction of business, and render the administration of justice more speedy, certain and uniform.

In connection herewith, your committee would direct your attention to a subject, which, in all countries, and especially in those possessing democratic governments, requires the gravest consideration of the people and their law makers. The present Constitution refers the appointment of all Judicial Officers to the voice of the people. Your committee find no fault with this feature of the Constitution ; but they think it is not guarded with the jealous and watchful care demanded by a subject so delicate and of such infinite importance. We pride ourselves upon our limited government ; upon the limited powers of the executive ; upon the limited powers of the legislative department ; we are too apt to forget that the Judicial branch exists, and must from the nature of its functions continue to exist, in the possession of *absolute and uncontrollable power*. We cannot limit the Judicial power by lessening the subjects of which it shall have cognizance, for the business habits of a free and enterprising people necessarily lead to differences between individuals, and to innumerable rights and wrongs, which require resort to courts of justice.

Neither is it possible to limit the Judicial power by holding the Judges responsible for their illegal decisions to any earthly tribunal. Who shall say that the error, which has wrought injustice, is the fault of malice or corruption, and not the result of ignorance or folly ? Nor is it possible to limit the Judicial power by depriving its judgments of absoluteness and finality. There must be a Court from which there shall be no appeal, and whose judgments on all matters belonging to its jurisdiction shall be finally pronounced and absolutely obeyed. To this view of the nature of the Judicial power



the attention of the people should be earnestly called. A citizen's right to his life, to his liberty, to his reputation, to his property, and to his dearest and social relations, so far as any one or all of them may be involved in the construction of the law, are in the hands of a body of men possessing absolute, irresponsible and uncontrollable power. In what respect soever, it is possible for human tyranny to treat a human being, there may the Judicial power of this republic reach him, and be responsible to no man for the wrong. It follows as a necessary consequence, that the only guaranty against enormous and irremediable abuse of power in the Judicial department is to be found in the proper qualifications of the Judges. The most distinguished attributes of a Judge should be impartiality between suitors; a profound knowledge of the law; indefatigable industry; inexhaustible patience; a sincere desire to do what is right; a profound regard for all moral observances in form and substance; an elevated, dignified, sober, consistent and prudent life, for a Judge should not only take care that he pronounce the law aright; he should, moreover, so conduct himself as to win by the strength of his intellect and the daily beauty of his life the profound respect and unlimited confidence of the people who have submitted to his judgment their Constitution and their Laws, and every right and interest which governments are instituted to protect. The unsettled condition of our laws, and the great variety of new questions involving vast amounts of property, fill our courts with cases upon which great results depend. Perhaps the courts of justice of no nation in the world have so many important principles, affecting immense interests, to pass upon, as those of this State.

We therefore regard it as a matter of the greatest importance that some provision should be incorporated into the Constitution, whereby, as far as possible, the deleterious effects of political combinations and the evil results of party intrigues and contrivances in foisting upon the people unworthy candidates for judicial offices, may be guarded against. In the opinion of your committee the election of Judges is of itself a matter of sufficient importance to engage the careful attention and awaken the solicitude of the people. We owe no duty to the State or our fellow-citizens more important than the selection of a proper judge. With an able, upright, honest and independent judiciary, the Constitution will be sustained, the laws observed, and rights protected. Such a judiciary constitutes the corner stone and true foundation of republican institutions. Without it, republicanism is but a name. Our Constitution is careful in providing that the powers of the Executive, Legislative and Judicial Departments of Government shall be kept separate and distinct.

It may be said that the Constitution cannot by any provision secure this desirable end. We may at least approximate to it, by removing the election of Judges a certain length of time from all other elections, and by directing the single and undivided attention of the people to the qualifications of the men who are presented or who present themselves as candidates for judicial power and honor. The introduction of such a provision in the Constitution is much to be desired; and here do we find another reason for calling a Convention.

Your committee fully concur with His Excellency, the Governor, in the following additional recommendations:—

“That the first section of the ninth article of the Constitution be repealed, and the duties of the Superintendent of Public Instruction devolve upon the Secretary of State, or upon Commissioners to be chosen by the people of each school district or township.

“The office of Superintendent of Public Instruction, as a distinct department, is of very doubtful necessity, as an original question; and if, under any circumstances, it were desirable, can now with propriety be dispensed with, and thus relieve the Treasury annually to the amount of the salary and contingencies of that office. In adopting the policy proposed, we follow the example of a large majority of our sister States on this interesting subject. On examination, it will be found that more than two-thirds of the members of the confederacy have, after mature experience, in some of them, finally settled down on the measure advocated by this amendment. The States of Vermont and Wisconsin are the only ones which have constituted this a separate and independent office; New York, Massachusetts, Illinois, and Pennsylvania have merged the duties of this office in that of the Secretary of State; Indiana has placed it in the hands of the State Treasurer; Connecticut, with the State Auditor; and Maine, New Hampshire, Louisiana, Mississippi, Alabama, Florida, Georgia and Missouri have divided them out among commissioners elected by the people of the various school districts. Such commanding precedents should not be disregarded by us.

“The fundamental law of government, which can only be changed after long and strenuous effort, it would seem, should be confined to provisions for great and admitted principles and measures, and leave the ways and means of carrying those great truths into effect to the wisdom and patriotism of the legislative power, acting under a knowledge of the peculiar circumstances of the times.

“The twenty-fifth section of the fourth article is equivocal and doubtful in its construction, and would seem to impose a novel, unnecessary, expensive, and—as it has been sometimes acted on—inoperative duty. It provides that, in order to revise or amend an Act or Section, the Act or Section proposed to be amended must be re-enacted and re-published at length. This requisition increases considerably our printing expenditures, and from the useless labor required, is frequently disregarded in practice. Thus, at one and the same time teaching us to evade the solemn injunctions of the Constitution which we have sworn to support, and uselessly enhancing the demands upon the Treasury.

“I therefore recommend that the portion of this section liable to these objections be repealed, and that the section be left to read, ‘Every law enacted by the Legislature shall embrace but one object, and that shall be expressed in its title.’

“That the eighteenth section of the fifth article of the Constitution, providing for the election of Surveyor General, be amended, and that the whole matter of the necessity of appointment or election of such officer be confided to the Legislature. The reasons for this recommendation are the same as those which obtain in the case of the Superintendent of Public Instruction.

“The eighth section of the eleventh article provides that the fiscal year

shall commence on the first day of July. I recommend that this section be so amended as to make the commencement of the fiscal year on the fifteenth of December. The reasons for this change will readily present themselves. Under the existing provisions, the Legislature which assembles on the first Monday of January, cannot obtain satisfactory information from the Annual Reports of the Comptroller and Treasurer as to the condition of the State finances, after the first day of July preceding. And, consequently, it becomes necessary for this information to be obtained by special resolution, always at great expense of time and labor to those officers. If the change suggested, however, were made, the Reports of these officers would display the condition of our finances up to the fifteenth of December, and be much more satisfactory.

“The office of Superintendent of Public Buildings is believed to be unnecessary, and a useless burden to the Treasury. I recommend, therefore, that the law creating that office, unless it expired by limitation on the first of January, as is believed to be the case, be repealed, and that the duties thereof be required to be performed by some one, or all of the State officers, without additional compensation; or that some other disposition be made of those duties which will relieve the Treasury of the expenditures incident to that office. In this too, we follow the example of most of our sister States. New York vests these duties in the Governor, Lieutenant-Governor, Speaker of Assembly, Secretary of State, Attorney-General and Comptroller, by right of office. Mississippi vests them in the Auditor and Treasurer of State. Illinois places them with the Secretary of State. Wisconsin with the Governor alone. In no State of the Union, save that of Missouri, can I find this constituted a separate and distinct office.”

To the defects in the Constitution already pointed out, your committee are aware many others of magnitude might be added, but they are of opinion that sufficient has been seen of the errors of that instrument to awaken attention, and peradventure enough to satisfy the thinking and the candid, that an entire revision of its provisions is imperiously demanded by the best interests of the State.

Your committee entertaining these views in regard to the numerous and important changes which should be made in the fundamental law of the State, deem it scarcely necessary to enter into argument to prove that the entire Constitution should be revised, and that the proposed alterations cannot be effected by any set of amendments to be proposed by the Legislature to the people. It is obvious that the subjects of the proposed revision are numerous and important, and if adopted, would in a great measure change the entire structure of the present Constitution.

Your committee deem it to be consonant with truth and reason, and with the true spirit of the Constitution *to effect the results of an entire revision* of that instrument, in the mode therein recommended, and not in the manner pointed out for the accomplishment of quite a different object. By a convention of delegates chosen by the people for that purpose, and not by amendments proposed by the Legislature.

The members of the present Legislature were not elected with the understanding that any amendments were to be made, and it is but just that their constituents should be heard before any alterations are proposed. It may

be that the people of this State prefer the present system, defective as it is, to the uncertainty which must always attend a change of the organic law of the State; and it would be useless labor and expense to waste the time of two successive Legislatures in discussing proposed amendments, which are liable to be rejected as soon as the voice of the people can be heard upon them.

Changes in the Constitution in certain respects, necessarily require also corresponding changes in others—biennial sessions adopted, would necessarily increase or diminish the terms of various officers. Proposed amendments submitted to the people may, perhaps be in part adopted, and in part rejected, and the amendments adopted required as indispensable, those rejected, or others. If, however, it be contended that the proposed amendments must go together, all to share the same fate, and be together adopted or rejected, then this mode of amending the Constitution is still the more objectionable; for it may be that the people desire a certain amendment, but not just as proposed. Then, and in that event, they are placed in the peculiar predicament of being required to vote for an amendment as they do not want it, or to vote against any amendment, when in truth they want one. Another objectionable feature in this mode of amending the Constitution is, that if pursued, it will necessarily occasion that instrument to be undergoing continual changes, assimilate it to special statutes, destroy its efficiency, and injuriously affect every vested right in the State. Above all things, our fundamental law should be stable, certain, and consistent with itself. It should be plain, harmonious and intelligible. Itself being designed as the Supreme Law of the State, with which all others must conform, should, as little as possible, be liable to doubt, and the subject of Judicial construction and Legislative debate.

One of the principal arguments against a Convention to revise the Constitution is the expense with which it would be attended. Your Committee can scarcely award to gentlemen who urge this objection the credit of sincerity. For in the first place it is not the question of calling a Convention by the Legislature, for which they contend. It is simply that the question of a Convention, or no Convention, shall go to the people. This, your committee recommend, because it can cost the State nothing worthy of note at all; because by it, and it alone, can successfully be taken the preliminary steps towards the adoption of a system of retrenchment and reform, which is imperiously required to save the State from bankruptcy and ruin: because it will save, if the Convention be called and biennial sessions be adopted, at least a quarter of a million of dollars yearly. The census of 1855, if also dispensed with, will save the State nearly, if not fully, the entire cost of a Convention. We further propose to dispense with five or six District Judges, and to abolish numerous sinecure offices, which will have large salaries attached to them as long as the offices exist. On the score of economy we think there can be but one opinion among gentlemen who take a rational view of the subject. There are those, however, who stand opposed to submitting this question to the people, and who still contend for amendments of the Constitution by the Legislature. The impolicy of this course to your committee appears evident—first, from the fact that it virtually resolves the present Legislature into a Constitutional Convention;—assumes as

a certainty that the people desire alterations in the Constitution ;—presumes that the precise alterations demanded are exactly understood ;—makes the members of the present Legislature the elected delegates of the Convention ;—occasions an expense to the State equal to that of the very Convention those gentlemen are contending against : and all this, too, without any expression whatever from the people, or without their being first consulted. Now we would inquire in all candor, what difference can there be in the expenses of two successive Legislatures while considering and acting upon the Constitution, and a Convention of Delegates elected by the people for the same purpose ? The number of Delegates cannot exceed that of both branches of the Legislature, and the time of the sitting of either, as well as their compensation, is indefinite. Gentlemen have, perhaps, not reflected upon the vast amount of time that must necessarily be consumed in discussing proposed amendments to the Constitution by two successive Legislatures ; also the probabilities of their disagreement, and of amendments to amendments being proposed by the latter to be acted upon by the one then next ensuing ;—all of which must evidently tend to an increased consumption of time and an increased amount of expense.

Again, it has been said, that the people have expressed no desire to have a convention. This objection, your committee are of opinion, is not well founded ; for, although, no general and universal call from every portion of the State has been made, yet we are very sure that quite a large and respectable number of our citizens do entertain the hope, that they will be allowed to vote upon a question of so much interest to them ; and, indeed, in not a few instances, have they so declared themselves. We take it, that wherever the people have agitated the question of changing the Constitution, they have as often agitated the question of a convention ; and that in no instance have they ever, in this State, urged the propriety of changing that instrument in any other mode. It should also be borne in mind, that the people of our State are a free and independent people—as well privileged to silence, as to the freedom of speech—as well to remain mute, if they so choose, as to herald forth their opinions and wishes to the world ; and that the interests of none should be disregarded through mistaken notions of their indifference in respect to the question at issue, because, forsooth, they have chosen to exercise but the rights of freemen.

It is urged, also, that although the time will soon arrive, that it has not yet come, for revising the Constitution ; the hour is not yet rife. Your committee would beg leave to ask, *for what should we wait ?* By what political Miller is the year and month to be prognosticated ? What system of chronology ? What book of the Prophets ? do they consult, who see into the necessities of the future, and cannot discern the wants of the present day. To what extent do they desire the catalogue of grievances to be increased, before they will consent to afford a remedy ? How large a State debt do they desire to accumulate before they will yield to retrenchment, and to the abandonment of a ruinous system of extravagance ? How heavy shall be the burden, how devastating the effects of unequal taxation, before they will consent to distribute the burdens and the blessings of government equally over all parts of the State ? How long shall rich sinecures be retained, that the people may pay with actual labor for imaginary services,

and be reduced to want in process of supplying the fancied necessities of State. Wait a little longer, say the opposition, and then will the proper time have come. Your committee think it due to the people, the real sufferers and parties in interest, that they themselves should be heard upon this important question, and that immediately. If they desire a convention changing the Constitution, why deny them? If they do not, why not hear them?

Your Committee herewith submit the accompanying bill, entitled "an Act recommending to the Electors to vote For or Against calling a Convention to Revise and Change the entire Constitution of this State," and earnestly recommend its passage.

BENJ. F. MYRES,  
Chairman.

ELCAN HEYDENFELDT,  
ROMUALDO PACHECO,  
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R. G. READING,  
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