

1918

COURTS

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ARTICLE IN FAVOR OF SENATE CONSTITUTIONAL AMENDMENT NO. 12.

This amendment was introduced at the request of Alameda county to enable it to submit the question of city and county consolidation to the electors in such a way that they will be fully informed as to all of the provisions relating to consolidation before voting thereon.

It applies solely to Alameda county and does not affect any other county in the state. San Francisco and Los Angeles counties are both exempted from its operation by reason of their operation under freeholders' charters. Other counties are excepted by reason of their population. It does not repeal or alter in any way any part of the constitution or the amendment thereto to be voted upon at the coming election, which permits San Francisco and San Mateo counties to consolidate their interests.

The amendment simplifies the method of calling elections for the submission of the question of consolidation to the electors of the several municipalities in the county, by providing that before an invitation is extended to the various municipalities to join in a consolidated city and county government, the proposed charter shall be prepared by freeholders elected from the whole of the county, showing just what sort of a government is proposed—whether there shall be a system of boroughs and the rights and powers of each borough.

It safeguards the independence, rights and powers of each borough by providing, should a consolidation be formed under a system of boroughs, that said rights, powers, jurisdiction and privileges of such boroughs shall not be taken away, changed or altered except by a majority

vote of the electors in separate boroughs affected.

The amendment provides that all of the cities and towns and all of the unincorporated territory within the county may consolidate and form a city and county. It also provides that a lesser area than that of the whole county, consisting of those cities and towns whose electors may vote in favor, may form the consolidation. The question of formation is submitted to each municipality after the proposed charter has been printed and distributed to the electors. Each municipality votes separately thereon, thus guaranteeing to the smaller equal rights with the larger municipalities.

In any consolidation that may take place no city or town or unincorporated territory shall assume or be liable for the outstanding debts or bonded indebtedness of any other city or town at the time the charter takes effect.

It clears up the situation as to schools, so as to provide that there may be one or more school districts, either rural or urban, under the control of one board and one school superintendent.

If the amendment is adopted it will enable the people of Alameda county to get better and more service at less cost.

As the amendment only affects Alameda county, and permits a unification of all of the interests in the county, eliminating many duplications in community effort and activities, the electors throughout the State of California should assist in its adoption by voting "Yes" on the amendment.

A. H. BREED,
State Senator Fifteenth District.
EDW. J. TYRELL,
State Senator Sixteenth District.

COURTS. Assembly Constitutional Amendment 61. Amends Section 1, Article VI of Constitution. Omits from enumeration of courts, in which judicial power is by that section declared vested, "district courts of appeal, superior courts and such inferior courts as the legislature may establish in any incorporated city or town, township, county or city and county," and substitutes therefor "such other courts as the legislature by general law (subject to referendum) may establish." Declares remaining provisions of same article, except section nineteen relating to charging juries, shall have same effect as general laws and legislature may repeal or amend same.

YES	
NO	

Assembly Constitutional Amendment No. 61—A resolution to propose to the people of the State of California an amendment to article six, section one, of the constitution of the State of California, relating to judicial power.

The Legislature of the State of California, at its regular session commencing on the eighth day of January, one thousand nine hundred seventeen, two-thirds of the members elected to each of the two houses of the said legislature voting in favor thereof, hereby proposes that section one of article six of the constitution of the State of California be amended to read as follows:

PROPOSED AMENDMENT.

(Proposed changes in provisions are printed in black-faced type.)

Section 1. The judicial power of the state shall be vested in the senate, sitting as a court of impeachment, in a supreme court, and in such other courts as the legislature by general law (subject to the referendum) may establish. Upon this section becoming effective the remaining provisions of this article other than section nineteen, whether adopted heretofore or hereinafter, shall become of the same force and effect as general laws and shall be subject to repeal or amendment by legislative act adopted pursuant hereto.

Section one, article six, proposed to be amended, now reads as follows:

EXISTING PROVISIONS.

(Provisions proposed to be repealed are printed in italics.)

Section 1. The judicial power of the state shall be vested in the senate, sitting as a court of impeachment, in a supreme court, *district courts of appeal, superior courts and such inferior courts as the legislature may establish in any incorporated city or town, township, county, or city and county.*

The remaining provisions of article six, proposed to be annulled as portions of the constitution, but to remain in force and effect as general laws, subject to repeal or amendment by legislative act, now read as follows:

Sec. 2. The supreme court shall consist of a chief justice and six associate justices. The court may sit in departments and in bank and shall always be open for the transaction of business. There shall be two departments, to be nominated, respectively, department one and department two. The chief justice shall appoint three of the associate justices to each department, and such assignment may be changed by him from time to time. The associate justices shall be competent to sit in either department and may interchange with each other by agreement among themselves, or as ordered by the chief justice. Each of the departments shall have the power to hear and determine appeals.

and all questions arising thereon, subject to the provisions hereinafter contained in relation to the court in bank. The presence of three justices shall be necessary to transact any business in either of the departments, except such as may be done at chambers, and the concurrence of three justices shall be necessary to pronounce a judgment. The chief justice shall apportion the business to the departments, and may, in his discretion, order any cause pending before the court to be heard and decided by the court in bank. The order may be made before or after judgment pronounced by a department; but where a cause has been allotted to one of the departments, and a judgment pronounced thereon, the order must be made within thirty days after such judgment, and concurred in by two associate justices, and if so made it shall have the effect to vacate and set aside the judgment. Any four justices may, either before or after judgment by a department, order a case to be heard in bank. If the order be not made within the time above limited, the judgment shall be final. No judgment by a department shall become final until the expiration of the period of thirty days aforesaid, unless approved by the chief justice, in writing, with the concurrence of two associate justices. The chief justice may convene the court in bank at any time, and shall be the presiding justice of the court when so convened. The concurrence of four justices present at the argument shall be necessary to pronounce a judgment in bank; but if four justices, so present, do not concur in a judgment, then all the justices qualified to sit in the cause shall hear the argument; but to render a judgment a concurrence of four judges shall be necessary. In the determination of causes, all decisions of the court, in bank or in departments, shall be given in writing, and the grounds of the decision shall be stated. The chief justice may sit in either department, and shall preside when so sitting; but the justices assigned to each department shall select one of their number as presiding justice. In case of the absence of the chief justice from the place at which the court is held, or his inability to act, the associate justices shall select one of their own number to perform the duties and exercise the powers of the chief justice during such absence or inability to act.

Sec. 3. The chief justice and the associate justices shall be elected by the qualified electors of the state at large at the general state elections, at the time and places at which state officers are elected; and the term of office shall be twelve years from and after the first Monday after the first day of January next succeeding their election; provided, that the six associate justices elected at the first election shall, at their first meeting, so classify themselves, by lot, that two of them shall go out of office at the end of four years, two of them at the end of eight years, and two of them at the end of twelve years, and an entry of such classification shall be made in the minutes of the court in bank, signed by them, and a duplicate thereof shall be filed in the office of the secretary of state. If a vacancy occur in the office of a justice, the governor shall appoint a person to hold the office until the election and qualification of a justice to fill the vacancy, which election shall take place at the next succeeding general election, and the justice so elected shall hold the office for the remainder of the unexpired term. The first election of the justices shall be at the first general election after the adoption and ratification of this constitution.

Sec. 4. The supreme court shall have appellate jurisdiction on appeal from the superior courts in all cases in equity, except such as arise in justices' courts; also, in all cases at law which involve the title or possession of real estate, or the liability of any tax, impost, assessment, toll, or municipal fine, or in which the demand, exclusive of interest, or the value of the property in controversy, amounts to two thousand dollars; also, in all such probate matters as may be provided by law; also, on questions of law alone, in all criminal cases where judgment of death has been ren-

dered. The said courts shall have appellate jurisdiction in all cases in equity, and proceedings before a superior court of appeal, which shall be ordered by the supreme court to be transferred to them for hearing and decision, as hereinafter provided. The said court shall also have power to issue writs of mandamus, certiorari, prohibition, and habeas corpus, and all other writs necessary or proper to the complete exercise of its appellate jurisdiction. Each of the justices shall have power to issue writs of habeas corpus to any part of the state, upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the supreme court, or before any district court of appeal, or before any judge thereof, or before any superior court of the state, or before any judge thereof.

The state is hereby divided into three appellate districts, in each of which there shall be a district court of appeal consisting of three justices. The first district shall embrace the following counties: San Francisco, Marin, Contra Costa, Alameda, San Mateo, Santa Clara, Fresno, Santa Cruz, Monterey, and San Benito.

The second district shall embrace the following counties: Tulare, Kings, San Luis Obispo, Kern, Inyo, Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside, and San Diego.

The third district shall embrace the following counties: Del Norte, Shasta, Modoc, Humboldt, Trinity, Shasta, Lassen, Tehama, Plumas, Mendocino, Lake, Colusa, Glenn, Butte, Sierra, Sutter, Yuba, Nevada, Sonoma, Napa, Yolo, Placer, Solano, Sacramento, El Dorado, San Joaquin, Amador, Calaveras, Stanislaus, Mariposa, Madera, Merced, Tuolumne, Alpine, and Mono.

The supreme court, by orders entered in its minutes, may from time to time remove one or more counties from one appellate district to another, but no county not contiguous to another county of a district shall be added to such district.

Said district courts of appeal shall hold their regular sessions respectively at San Francisco, Los Angeles, and Sacramento, and they shall always be open for the transaction of business.

The district courts of appeal shall have appellate jurisdiction on appeal from the superior courts in all cases at law in which the demand, exclusive of interest, or the value of the property in controversy, amounts to three hundred dollars, and does not amount to two thousand dollars; also, in all cases of forcible and unlawful entry and detainer (except such as arise in justices' courts), in proceedings in insolvency, and in actions to prevent or abate a nuisance; in proceedings of mandamus, certiorari, and prohibition, usurpation of office, contesting elections and eminent domain, and in such other special proceedings as may be provided by law (excepting cases in which appellate jurisdiction is given to the supreme court); also, on questions of law alone, in all criminal cases prosecuted by indictment or information in a court of record, excepting criminal cases where judgment of death has been rendered. The said courts shall also have appellate jurisdiction in all cases, matters, and proceedings pending before the supreme court which shall be ordered by the supreme court to be transferred to a district court of appeal for hearing and decision. The said courts shall also have power to issue writs of mandamus, certiorari, prohibition, and habeas corpus, and all other writs necessary or proper to the complete exercise of their appellate jurisdiction. Each of the justices thereof shall have power to issue writs of habeas corpus to any part of his appellate district upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the district court of appeal of his district, or before any superior court within his district, or before any judge thereof.

The supreme court shall have power to order any cause pending before the supreme court to be heard and determined by a district court of appeal, and to order any cause pending before a district court of appeal to be heard and determined by the supreme court. The order last

judgment shall be a before judgment has been pronounced by a district court of appeal, or within thirty days after such judgment shall have become final therein. The judgments of the district courts of appeal shall become final therein upon the expiration of thirty days after the same shall have been pronounced.

The supreme court shall have power to order causes pending before a district court of appeal for one district to be transferred to the district court of appeal of another district for hearing and decision.

The justices of the district courts of appeal shall be elected by the qualified electors within their respective districts at the general state elections at the times and places at which justices of the supreme court are elected. Their terms of office and salaries shall be the same as those of justices of the supreme court, and their salaries shall be paid by the state. Upon the ratification by the people of this amendment the governor shall appoint nine persons to serve as justices of the district courts of appeal until the first Monday after the first day of January in the year 1907; provided, that not more than six of said persons shall be members of the same political party. At the election in the year 1906 nine of such justices shall be elected as above provided, and the justices of each district court of appeal shall so classify themselves by lot that one of them shall go out of office at the end of four years, one of them at the end of eight years, and one of them at the end of twelve years; an entry of such classification shall be made in the minutes of the court, signed by the three justices thereof, and a duplicate thereof filed in the office of the secretary of state. If any vacancy occur in the office of a justice of the district courts of appeal, the governor shall appoint a person to hold office until the election and qualification of a justice to fill the vacancy; such election shall take place at the next succeeding general state election as aforesaid; the justice then elected shall hold the office for the unexpired term.

One of the justices of each of the district courts of appeal shall be the presiding justice thereof, and as such shall be appointed or elected as the case may be. The presence of three justices shall be necessary for the transaction of any business by such court, except such as may be done at chambers, and the concurrence of three justices shall be necessary to pronounce a judgment.

Whenever any justice of the supreme court is for any reason disqualified or unable to act in a cause pending before it, the remaining justices may select one of the justices of a district court of appeal to act pro tempore in the place of the justice so disqualified or unable to act.

Whenever any justice of a district court of appeal is for any reason disqualified or unable to act in any cause pending before it, the supreme court may appoint a justice of the district court of appeal of another district, or a judge of a superior court who has not acted in the cause in the court below, to act pro tempore in the place of the justice so disqualified or unable to act.

No appeal taken to the supreme court or to a district court of appeal shall be dismissed for the reason only that the same was not taken to the proper court, but the cause shall be transferred to the proper court upon such terms as to costs or otherwise as may be just, and shall be proceeded with therein as if regularly appealed thereto.

All statutes now in force allowing, providing for, or regulating appeals to the supreme court shall apply to appeals to the district courts of appeal so far as such statutes are not inconsistent with this article and until the legislature shall otherwise provide.

The supreme court shall make and adopt rules not inconsistent with law for the government of the supreme court and of the district courts of appeal and of the officers thereof, and for regulating the practice in said courts.

Sec. 4. No judgment shall be set aside, or new trial granted, in any case, on the ground of misdirection of the jury, or of the improper admission or rejection of evidence, or for any error as to any matter of pleading, or for any error as to any matter of procedure, unless, after an examination of the entire case, including the evidence, the court shall be of the opinion that the error complained of has resulted in a miscarriage of justice.

Sec. 5. The superior court shall have original jurisdiction in all cases in equity, and in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand, exclusive of interest or the value of the property in controversy amounts to three hundred dollars, and in all criminal cases amounting to felony, and cases of misdemeanor not otherwise provided for; of actions of forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate; of divorce and for annulment of marriage; and of all such special cases and proceedings as are not otherwise provided for, and said courts shall have the power of naturalization, and to issue papers therefor. They shall have appellate jurisdiction in such cases arising in inferior courts in their respective counties as may be prescribed by law. They shall be absent from (legal holidays and non-judicial days excepted), and their process shall extend to all parts of the state; provided, that all actions for the recovery of the possession of, quieting the title to, or for the enforcement of liens upon real estate, shall be commenced in the county in which the real estate, or any part thereof, affected by such action or actions, is situated. Said courts, and their judges, shall have power to issue writs of mandamus, certiorari, prohibition, quo warranto, and habeas corpus, on petition by or on behalf of any person in actual custody, in their respective counties. Injunctions and writs of prohibition may be issued and served on legal holidays and non-judicial days.

Sec. 6. There shall be in each of the organized counties, or cities and counties, of the state, a superior court, for each of which at least one judge shall be elected by the qualified electors of the county, or city and county, at the general state election; provided, that until otherwise ordered by the legislature, only one judge shall be elected for the counties of Yuba and Sutter, and that in the city and county of San Francisco there shall be elected twelve judges of the superior court, any one or more of whom may hold court. There may be as many sessions of said court, at the same time, as there are judges thereof. The said judges shall choose, from their own number, a presiding judge, who may be removed at their pleasure. He shall distribute the business of the court among the judges thereof, and prescribe the order of business. The judgments, orders, and proceedings of any session of the superior court held by any one or more of the judges of said court, respectively, shall be equally effectual as if all the judges of said respective court presided at such session. In each of the counties of Sacramento, San Joaquin, Los Angeles, Sonoma, Santa Clara, and Alameda there shall be elected two such judges. The term of office of judges of the superior courts shall be six years from and after the first Monday of January next following their election; provided, that the twelve judges of the superior court elected in the city and county of San Francisco, at the first election held under this constitution, shall at their first meeting so classify themselves, by lot, that four of them shall go out of office at the end of two years, and four of them shall go out of office at the end of four years, and four of them shall go out of office at the end of six years; and an entry of such classification shall be made in the minutes of the court, signed by them, and a duplicate thereof filed in the office of the secretary of state. The first election of judges of

the superior courts shall be held at the first general election held after the adoption and ratification of this constitution. If a vacancy occurs in the office of judge of a superior court, the governor shall appoint a person to hold the office until the election and qualification of a judge to fill the vacancy, which election shall take place at the next succeeding general election, and the judge so elected shall hold office for the remainder of the unexpired term.

Sec. 7. In any county, or city and county, other than the city and county of San Francisco, in which there shall be more than one judge of the superior court, the judges of such court may hold term many sessions of said court at the same time as there are judges thereof, and shall apportion the business among themselves as equally as may be.

Sec. 8. A judge of any superior court may hold a superior court in any county, at the request of a judge of the superior court thereof, and upon the request of the governor it shall be his duty so to do. But a cause in the superior court may be tried by a judge pro tempore, who must be a member of the bar, agreed upon in writing by the parties litigant, or their attorneys of record, and sworn to try the cause, and the person so selected shall be empowered to act in such capacity in all further proceedings in any suit or proceedings tried before him until the final determination thereof. There may be as many sessions of a superior court at the same time as there are judges thereof, including any judge or judges acting upon request, or any judge or judges pro tempore. The judgments, orders, acts and proceedings of any session of any superior court held by one or more judges acting upon request, or judge or judges pro tempore, shall be equally effective as if the judge or all of the judges of such court presided at such session.

Sec. 9. The legislature shall have no power to grant leave of absence to any judicial officer; and any such officer who shall absent himself from the state for more than sixty consecutive days shall be deemed to have forfeited his office. The legislature of the state may, at any time, two-thirds of the members of the senate and two-thirds of the members of the assembly voting therefor, increase or diminish the number of judges of the superior court in any county, or city and county, in the state; provided, that no such reduction shall affect any judge who has been elected.

Sec. 10. Justices of the supreme court, and of the district courts of appeal, and judges of the superior courts may be removed by concurrent resolution of both houses of the legislature, adopted by a two-thirds vote of each house. All other judicial officers, except justices of the peace, may be removed by the senate on the recommendation of the governor; but no removal shall be made by virtue of this section unless the cause thereof be entered on the journal, nor unless the party complained of has been served with a copy of the complaint against him and shall have had an opportunity of being heard in his defense. On the question of removal the ayes and noes shall be entered on the journal.

Sec. 11. The legislature shall determine the number of each of the inferior courts in incorporated cities or towns, and in townships, counties, or cities and counties, according to the population thereof and the number of judges or justices thereof, and shall fix by law the powers, duties and responsibilities of each of such courts and of the judges or justices thereof; provided, such powers shall not in any case trench upon the jurisdiction of the several courts of record, except that the legislature shall provide that said courts shall have concurrent jurisdiction with the superior courts in cases of forcible entry and detainer, where the rental value does not exceed twenty-five dollars per month, and where the whole amount of damages claimed does not exceed two hundred dollars, and in cases to enforce and foreclose liens on personal property when neither the amount of liens nor the value of the property amounts to three hundred dollars.

Sec. 12. The legislature shall have no power to appeal the superior courts, and shall have no power to appeal the inferior courts, and shall have no power to appeal the district courts of appeal.

Sec. 13. The legislature shall fix by law the jurisdiction of any inferior courts which may be established in pursuance of section one of this article, and shall fix by law the powers, duties, and responsibilities of the judges thereof.

Sec. 14. The county clerks shall be ex officio clerks of the courts of record in and for their respective counties, or cities and counties. The legislature may also provide for the appointment, by the several superior courts, of one or more commissioners in their respective counties, or cities and counties, with authority to perform chamber business of the judges of the superior courts, to take depositions, and perform such other business connected with the administration of justice as may be prescribed by law.

Sec. 15. No judicial officer, except court commissioners, shall receive to his own use any fees or perquisites of office; provided, that justices of the peace now holding office shall receive in their own use such fees as are now allowed by law during the term for which they have been elected.

Sec. 16. The legislature shall provide for the speedy publication of such opinions of the supreme court and of the district courts of appeal as the supreme court may deem expedient, and all opinions shall be free for publication by any person.

Sec. 17. The justices of the supreme court and of the district courts of appeal, and the judges of the superior courts, shall severally, at stated times during their continuance in office, receive for their service such compensation as is or shall be provided by law. The salaries of the judges of the superior court, in all counties having but one judge, and in all counties in which the terms of the judges of the superior court expire at the same time, shall not hereafter be increased or diminished after their election, nor during the term for which they shall have been elected. Upon the adoption of this amendment the salaries then established by law shall be paid uniformly to the justices and judges then in office. The salaries of the justices of the supreme court and of the district courts of appeal shall be paid by the state. One-half of the salary of each superior court judge shall be paid by the state; and the other half thereof shall be paid by the county for which he is elected. On and after the first day of January, A. D. one thousand nine hundred and seven, the justices of the supreme court shall each receive an annual salary of eight thousand dollars; and the justices of the several district courts of appeal shall each receive an annual salary of seven thousand dollars; the said salaries to be payable monthly.

Sec. 18. The justices of the supreme court, and of the district courts of appeal, and the judges of the superior courts shall be ineligible to any other office or public employment than a judicial office or employment during the term for which they shall have been elected.

Sec. 19. The style of process shall be "The people of the State of California," and all prosecutions shall be conducted in their name and by their authority.

Sec. 20. The supreme court shall appoint a clerk of the supreme court; provided, however, that any person elected to the office of clerk of the supreme court before the adoption hereof, shall continue to hold such office until the expiration of the term for which he may have been elected. Said court may also appoint a reporter and not more than three assistant reporters of the decisions of the supreme court and of the district courts of appeal. Each of the district courts of appeal shall appoint its own clerk. All the officers herein mentioned shall hold office and be removable at the pleasure of the courts by which they are severally appointed, and they shall receive such compensation as shall be prescribed by law, and discharge such duties as shall be prescribed by law, or by the rules of

Sec. 22. No judge of a court of record shall practice law in any court of this state during his continuance in office.

Sec. 23. No one shall be eligible to the office of justice of the supreme court, or of a district court of appeal, or of a judge of a superior court, unless he shall have been admitted to practice before the supreme court of the state.

Sec. 24. No judge of the supreme court nor a district court of appeal, nor of a superior court, shall draw or receive any monthly salary unless he shall make and subscribe an affidavit as an officer entitled to administer oaths, that while in his court remains pending and undecided, that has been submitted for decision during a period of ninety days. In the determination of causes all decisions of the supreme court and of the district courts of appeal shall be given in writing, and the grounds of the decisions shall be stated. When the justices of a district court of appeal are unable to concur in a judgment, they shall give their several opinions in writing and cause copies thereof to be forwarded to the supreme court.

Sec. 25. The present supreme court commission shall be abolished at the expiration of its present term of office, and no supreme court commission shall be created or provided for after January 1st, A. D. 1905.

ARGUMENTS IN FAVOR OF ASSEMBLY CONSTITUTIONAL AMENDMENT NO. 61.

This amendment gives the legislature the right to change our courts either by creating new ones or abolishing old ones. At present no changes can be made without a constitutional amendment being proposed by the legislature and ratified by the people. Before we can relieve the congested condition of our upper courts we must first place the proposition before the people as a whole. The legislature is able to ascertain the needs of our judicial system and therefore to vote very intelligently upon measures concerning the courts while the people as a whole have no means of knowing whether certain changes are necessary and will necessarily vote on hearsay. The judicial department of the state is one of the most, if not the most, important departments of the state, and the constitution should be so amended that necessary legislation along that line can be enacted without any unnecessary delay or expense. This amendment is proposed for the purpose of saving time and money; also for the reason that in so far as is possible and advisable, we should take things from our constitution and turn them into general laws. The article amended by this proposed amendment contains twenty-six sections, all referring to the judicial department, which would be in a more convenient place in our general laws. If this amendment is carried article VI will contain two short sections instead of the twenty-six and the matter contained therein will be as effective in the general laws.

A. W. CARLSON,
 Assemblyman Fiftieth District.

A grievance exists in our judicial system, particularly in our appellate courts. It requires three years to secure a decision on an ordinary appeal. Some of our superior courts, the trial of cases can not be had for an undue length of time. The hope of constructive action was recognized by Justice Stone of the Supreme Court in

an address delivered by him in 1917, wise after referring to various ineffectual attempts to accomplish some measure of judicial reform, he said:

"Probably it has been a mistake to try and tinker with the old machine when as a matter of fact the state may need an entirely new machine. * * * I offer no speculative remedies; the only point that I desire to make in connection with such a situation is that we must go at reform in a far more radical, a larger and more constructive manner, if we expect to accomplish substantial results."

Little of a constructive nature can be accomplished without changing the constitution.

Two courses of action are open. One, expressed in this amendment (which finds precedent in the Federal Constitution), is to remove the present constitutional barriers and give the legislature power to act subject to referendum control. Relief may thus be obtained within less than a year. The other course is to express the particular reform desired in constitutional amendments, which would have to be framed, submitted, and then ratified. No relief could be assured by that course for years.

Ratification of this amendment offers a way, simple, adequate, and safe. Vote "Yes."

HENRY W. WRIGHT,
 Assemblyman Sixty-ninth District.

ARGUMENT AGAINST ASSEMBLY CONSTITUTIONAL AMENDMENT NO. 61.

The present Constitution provides for the popular election of the Chief Justice and Associate Justices of the Supreme Court, Justices of the District Courts of Appeal, and Judges of Superior Courts, fixes their terms and salaries, and requires these judges to decide cases within ninety days after submission as a condition for drawing salaries; requires the Supreme Court and District Courts of Appeal to render decisions in writing, stating reasons therefor; confers jurisdiction upon them to issue writs of habeas corpus, mandamus and other important writs, and appellate jurisdiction in cases arising in the Superior Courts; provides for the transfer of cases from the Supreme Court to the District Courts of Appeal; provides that no judgment shall be reversed or new trial granted for error in pleading or practice (mistakes of lawyers), instructions to juries or rulings on evidence (mistakes of judges), "unless, after an examination of the entire cause, including the evidence, the court shall be of the opinion that the error complained of has resulted in a miscarriage of justice"; provides for jurisdiction of the Superior Courts in all equity cases and other cases where the demand or value of property in controversy amounts to \$300, and for appellate jurisdiction in cases arising in inferior courts; provides for issuance of writs of habeas corpus, injunctions and other writs by Superior Courts; provides for the removal of judges by the legislature; provides that no judicial officer, except court commissioners, shall receive fees, and renders Judges of the Superior Court and higher courts ineligible to other than judicial office during their terms.

The proposed amendment would eliminate from the Constitution all these vital provisions. An empty shell would remain—a Supreme Court without judges and without jurisdiction under the Constitution—and all above named courts as creatures of the Constitution would be abolished. It is true the provisions referred to

shall remain in force with the effect of retro-
 spective law until changed by legislation. The fact
 is that the legislature will have the power
 to change the law—a most dangerous power to
 vest in any legislature. The amendment would
 make our judicial system subordinate to the
 legislature, a football of politics, a plaything
 of politicians.

The excuse offered for the amendment is
 delay in the administration of justice. This
 delay is chargeable to our system of practice
 and procedure, not to any defect in our Con-
 stitution. As the legislature has ample power
 under the Constitution to amend the system no
 constitutional amendment is necessary.

Our state government, like our national
 government and that of our sister states, is
 wisely divided into three co-ordinate depart-
 ments—executive, legislative and judicial. This
 amendment, conceived and born in haste, de-
 stroys the judicial department, and makes the
 legislative supreme—a fundamental change
 fraught with grave danger to our state.

JEREMIAH F. SULLIVAN,
 President San Francisco Bar Association.

LOS ANGELES COUNTY FUNDS. Assembly Constitutional Amendment 67. Adds
 Section 18 1/2 to Article XI of Constitution. Authorizes Los Angeles County, out
 of succeeding years' revenue or income, to reimburse any funds officially held
 by its treasurer which have been diminished by payment therefrom, during the
 sixty-fourth to sixty-eighth fiscal years inclusive, of claims or demands repre-
 senting its indebtedness or liability exceeding the income and revenue provided
 for the year in which same was incurred, whenever electors thereof so decide
 at election for that purpose, called by supervisors and held in accordance with
 state election laws.

YES
NO

Assembly Constitutional Amendment No. 67—A
 resolution to propose to the people of the
 State of California an amendment to article
 eleven of the state constitution by adding a
 new section thereto, relating to the re-
 imbursement of official funds held by the
 treasurer of Los Angeles county.

Resolved by the assembly, the senate con-
 curring. That the legislature of the State of
 California, at its forty-second regular session
 commencing the eighth day of January, 1917,
 two-thirds of all the members elected to each of
 the two houses voting in favor thereof, proposes
 to the people of the state that article eleven of
 the state constitution be amended by adding a
 new section thereto, to be numbered eighteen
 one-half, to read as follows:

PROPOSED AMENDMENT.

Sec. 18 1/2. Anything in this constitution to
 the contrary notwithstanding, the county of Los
 Angeles may, out of succeeding years' revenue
 or income, reimburse any funds officially held
 by the treasurer of Los Angeles county which
 have been heretofore diminished by payment
 therefrom, during the sixty-fourth, sixty-fifth,
 sixty-sixth, sixty-seventh or sixty-eighth fiscal
 years, of claims or demands representing in-
 debtedness or liability of said county in excess
 of the income and revenue provided for the year
 in which such indebtedness or liability was in-
 curred, whenever a majority of the qualified
 electors of said county voting at an election held
 for that purpose shall so decide; and such an
 election may be called by the board of super-
 visors of said county and held in accordance
 with the election laws of this state applicable
 thereto.

**ARGUMENTS IN FAVOR OF ASSEMBLY
 CONSTITUTIONAL AMENDMENT NO. 67.**

This proposed constitutional amendment
 merely provides a method by which the county
 of Los Angeles may repay money belonging to
 the state and to the schools which has been
 expended for the use and benefit of Los Angeles
 county, and which did not belong to the county.
 Approximately \$1,000,000 was expended in this
 manner. Such a state of affairs should not
 exist, it is true. That question, however, is not
 before the people in this instance. This con-
 dition does exist and some steps must be taken

to remedy matters. At present, there seems to
 be no feasible way of doing this.

The amendment is not mandatory, but is per-
 missive in its terms only, and there is a further
 safeguard in that no action can be taken for the
 purposes mentioned except by a majority vote of
 the electors of Los Angeles county. As a mat-
 ter of common honesty, the county of Los
 Angeles should return this money to the state,
 school and other funds from which it was with-
 drawn.

ALFRED L. BARTLETT,
 Assemblyman Sixty-third District.

The object of this amendment is to empower
 Los Angeles county, when a majority of its
 voters so decide, to raise money by future tax-
 ation to replenish certain public funds which
 have been depleted during the past six years
 through the making of tax levies insufficient to
 pay current expenses. Under existing constitu-
 tional provisions this can not be lawfully done.

Prior to 1915, Los Angeles county was not on
 a budget basis. The yearly tax levies were
 made on a lump estimate of the needs of the
 several departments, and these estimates were
 often too low. No provision was made for un-
 expected emergencies; and unforeseen demands,
 such as for replacing over one hundred bridges
 destroyed by the flood of 1914, called for large
 amounts. Expenditures in excess of the re-
 venues were for years taken from funds on hand.
 Antiquated accounting methods concealed a
 rapidly growing deficit, which, by July 1, 1916,
 was apparently in the neighborhood of \$1,000,000,
 though its exact amount, owing to defective
 records, will perhaps never be known.

A new accounting system, devised by the
 State Board of Control, was in part installed
 in 1915, and has been gradually extended to
 nearly all the departments. This has brought
 to light the true condition of county finances,
 and the adoption of the proposed amendmen-
 t will enable the present board of supervisors to
 put the finances of the county on a business
 basis. It will make it legally possible for the
 county to meet these obligations, which were
 incurred in an irregular manner, but with
 honest intentions on the part of the county
 officials.

A. ROSENBERG,
 Assemblyman Sixty-seventh District.