

1920

# CONSTITUTIONAL CONVENTION

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**CONSTITUTIONAL CONVENTION.** Senate Constitutional Amendment 10 amending Section 2 Article XVIII of Constitution. Declares that Legislature, whenever recommended by two-thirds of each branch thereof and approved by majority at next general election, shall provide at next session for calling convention to frame new Constitution and for electing delegates thereto; prescribes number and qualifications of such delegates; requires submission of such Constitution to people for approval at special election, authorizing such convention to submit alternative proposals. If this amendment is adopted requires that Legislature shall at next session enact all measures necessary to the holding of such convention.

**10**

YES

NO

Senate Constitutional Amendment No. 10—A resolution to propose to the people of the State of California an amendment to section two of article eighteen of the constitution of the State of California, relating to a convention for framing a new constitution of the State of California.

The legislature of the State of California, at its regular session commencing on the sixth day of January, A. D. 1919, two-thirds of the members elected to each of the two houses of said legislature voting in favor thereof, hereby proposes that section two of article eighteen 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.)

Sec. 2. Whenever two-thirds of the members elected to each branch of the legislature shall deem it necessary to adopt a new constitution, they shall recommend to the electors to vote, at the next general election, for or against a convention for that purpose, and if a majority of the electors voting at such election on the proposition for a convention shall vote in favor thereof, the legislature shall, at its next session, provide by law for calling the same. In so providing for calling such convention, the legislature shall make provision for the election of one hundred sixty-three delegates thereto (one of whom shall be chosen from each assembly district, one from each county, and twenty-five from the state at large), and each of whom shall, except as herein provided, have the same qualifications as members of the legislature.

All persons who are elected as delegates to such convention shall be deemed to hold an office filled by election by the people, within the meaning of section nineteen of article four of this constitution. No declaration of affiliation with any political party, or other test or qualification of partisanship of any kind shall be required of any candidate for election as a delegate to such convention, and the legislature shall incorporate in its plans for calling such convention suitable provisions for the nomination and election of nonpartisan delegates thereto.

The delegates elected to such convention shall meet within nine months after their election, at such place as the legislature may direct. At a special election to be provided for by law such proposed new constitution shall be submitted to the people for their ratification or rejection; and it shall be competent for the convention to submit alternative proposals and to determine the form and matter of such submission.

The returns of such election shall, in such manner as the convention shall direct, be certified to the executive of the state, who shall call to his assistance the controller, treasurer, and secretary of state, and compare the returns so certified to him; and it shall be the duty of the executive to declare, by his proclamation, such new constitution, as may have been ratified by a majority of all the votes cast at such special election, to be the constitution of the State of California.

[This Amendment]

The people, in voting for or against the adoption of this amendment, shall be deemed to have determined by such vote whether or not a majority of the electors are in favor of calling such convention, and, in the event of its adoption, the legislature shall proceed, at its forty-fourth session, to enact all necessary measures for calling and holding such convention, as herein provided.

**EXISTING PROVISIONS.**

Section two, article eighteen, proposed to be amended, now reads as follows:

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

Sec. 2. Whenever two-thirds of the members elected to each branch of the legislature shall deem it necessary to *revise this* constitution, they shall recommend to the electors to vote, at the next general election, for or against a convention for that purpose, and if a majority of the electors voting at such election on the proposition for a convention shall vote in favor thereof, the legislature shall, at its next session, provide by law for calling the same. *The convention shall consist of a number of delegates not to exceed that of both branches of the legislature, who shall be chosen in the same manner, and have the same qualifications, as members of the legislature.* The delegates so elected shall meet within three months after their election, at such place as the legislature may direct. At a special election to be provided for by law, *the constitution that may be agreed upon by such convention shall be submitted to the people for their ratification or rejection, in such manner as the convention may determine.* The returns of such election shall, in such manner as the convention shall direct, be certified to the executive of the state, who shall call to his assistance the controller, treasurer, and secretary of state, and compare the returns so certified to him; and it shall be the duty of the executive to declare, by his proclamation, such constitution as may have been ratified by a majority of all the votes cast at such special election, to be the constitution of the State of California.

**ARGUMENT IN FAVOR OF SENATE CONSTITUTIONAL AMENDMENT NO. 10.**

The present constitution of California was a compromise constitution, and not fully satisfactory to any one even when adopted in the year of 1879. It was simply the best that could be secured under the conditions. It was a party convention instead of a convention of the people of the state regardless of party lines.

That the present constitution was not, and is not, satisfactory, is well shown by the great frequency of its change by amendments and additions. Since its adoption thirty-one new sections have been added and one hundred and thirty-two amendments have been made. It has been amended more frequently than the constitution of any other state in the union. It has been amended and added to until it has become the second longest written constitution in the world and eight times as long as

the constitution of the United States, which has been in existence one hundred and thirty years and only amended eighteen times. In making many of these amendments no thought has been given to the effect such amendment might have on other matters covered in the section amended and other parts of the constitution, with the result that many confusing contradictions and uncertainties are constantly produced leading to endless litigation to clear up their meaning.

The constitution should be easily understood, and provide a clear, concise and definite outline of the fundamental law of the state with the proper guarantee of the rights and liberties of the people. It should not be a mixture of constitution and statutory law, such as the present constitution, making a confusing mass of mandates, directions, limitations and prohibitions such as we now have, and getting worse with every amendment.

A new constitution formed at the present time could be built from a full understanding of past experience and our knowledge of the present fundamental requirements for the best interests of the state, and we believe that the people of the state can be depended upon and should be given the opportunity to elect capable and honest delegates to a convention who would succeed in the forming of a constitution that will be clear and definite, easily understood and satisfactory to the people.

If this proposed amendment is adopted and a constitutional convention called, it will be a nonpartisan convention, made up of delegates representing every part of the state, elected by the people of their districts on account of their qualifications for the service and not on account of party affiliation.

No new constitution can be adopted by any convention, but only framed or formulated there. When so framed the proposed new constitution would have to be submitted to the people of the state for their adoption or rejection, and if not satisfactory to them they would of course refuse to adopt it.

M. B. JOHNSON,  
State Senator Eleventh District.  
J. R. THOMPSON,  
State Senator Twenty-fifth District.

**ARGUMENT AGAINST SENATE CONSTITUTIONAL AMENDMENT NO. 10.**

1. There is no acute or general demand for a new constitution sufficient to justify the political turmoil and business unrest which would be incident to a convention.

2. While recognizing defects in the present constitution, there is little assurance that a convention would be able to agree upon a better one. Advocates of the various legislative fea-

tures of our present constitution which have been secured after great effort, would not consent that they be eliminated, and, besides, many new provisions would be proposed by those who want their ideas of government protected by constitutional guaranty. In the convention, the tendency would likely be toward expansion rather than contraction, and the expense of the various elections, the resultant disturbance of business and disputes between labor and capital would be without beneficial results. If a simplified constitution is needed, it is better to employ the simplified method of the initiative in securing it.

3. It may be true that we have needed a new constitution ever since the present one was adopted, but that need is not as great now as formerly, and such changes as are desired from time to time can be secured by amendment. Our present constitution has been in force for forty years, the state has prospered under it, much progressive legislation has been added by amendment, it has been interpreted by a long course of judicial decision, most of its provisions have been construed and are understood, and property rights have become settled and stable. They would be disturbed and be made uncertain by the adoption of a new fundamental law and in the transition from one constitution to another.

4. There are many advantages in developing a constitution by the process of amendment. It gives the people the opportunity to express their views independently on each provision so adopted or proposed. An entirely new instrument prepared by men of varied interests and conflicting political opinion would, like the present constitution, contain some good and some bad provisions, and yet it must be adopted or rejected as a whole.

5. The initiative method of revising the constitution is more practical. It would require but one election, it is less expensive and less disturbing to the business and labor interests of the country, and is more promising of good results than the convention method here proposed. If those who favor a simplified constitution will prepare one, and submit it to the people through initiative amendment, as, in the opinion of most lawyers, may be done, it might be ratified. If it eliminates all features of legislation, contains a bill of rights and a statement of fundamental principles, defines merely the structure and not the minutiae of government, yet provides an intermediate code of direct legislation of less dignity and more easily amended than the constitution, it would commend itself to the people. Such constitution is not likely to proceed out of a convention, and any other form would be but little improvement upon the present one.

BEVERLY L. HODGHEAD.

**ALIEN POLL TAX.** Assembly Constitutional Amendment 13 amending Section 12, Article XIII of Constitution. Requires the Legislature to provide for the levy of an annual poll tax, and the collection thereof by assessors, of not less than four dollars on every alien male inhabitant of this state over twenty-one and under sixty years of age, except paupers, idiots and insane persons, such tax to be paid into county school fund in county where collected.

YES
NO

Assembly Constitutional Amendment No. 13—A resolution to propose to the people of the State of California to amend section twelve of article thirteen of the constitution of said state, relating to a poll tax.

Resolved by the assembly, the senate concurring, That the legislature of the State of Cali-

fornia, at its forty-third session commencing on the sixth day of January, one thousand nine hundred nineteen, two-thirds of all the members elected to each of the two houses of said legislature voting in favor thereof, proposes to amend section twelve of article thirteen of the constitution of the state to read as follows:

[Third five]