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PARTIAL CONSTITUTIONAL REVISION: VARIOUS

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should an increased workload warrant it; the present Constitution limits the number of commissioners to five.

ASSEMBLYMAN ROBERT E. BADHAM
SENATOR GEORGE E. DANIELSON

Argument Against Proposition 3

The people of California rightfully rejected the efforts of the State Constitution Revision Commission to wipe out safeguards written into Article XII (Public Utilities and Corporations) of the California Constitution in the General Election of 1968. We have before us once again the same efforts to

(1) delete the constitutional regulation of corporations and public utilities;

(2) delete the express constitutional grant of authority to the Public Utilities Commission to regulate rates of transportation companies;

(3) delete the constitutional provisions detailing powers of the P.U.C. to examine books and records of companies and to issue subpoenas and punish for contempt.

The present California constitution provides that no transportation company can raise its rates without a showing before the P.U.C. that such an increase is justified. The transportation industry has indicated that they wish to repeal this provision which, it would appear, benefits the people of this state more than it benefits the industry. Once taken out of the constitution, the matter would be subject to Legislative action where special interests are better represented by lobbyists than are the people's interests. In this connection, this proposed amendment would delete Sec. 19 of Article XII which forbids the taking of special favors from railroads by members of the Legislature.

It is equally questionable that the constitutional ban against conflict of interest covering members of the Public Utilities Commission would be removed by this proposition.

The Constitution Revision Commission has a worthwhile goal in trying to streamline our constitution and delete unnecessary language. Many of us believe, nonetheless, that the pro-

visions mentioned in this argument are very necessary to fully safeguard the interests of the public and we urge the electorate to reject this proposition once more.

JOHN J. MILLER
Assemblyman, 17th District

Rebuttal to Argument Against Proposition 3

Proposition 3 does delete constitutional reference to the formation of corporations. However, in 4 years of consideration by the Constitution Revision Commission and the Legislature, not one person objected to its deletion. All agreed that providing for this matter by statute is appropriate, for it gives added flexibility in a technical area of the law, and would help simplify our Constitution.

The present Constitution prevents the Legislature from affecting the power of the Public Utilities Commission (PUC) to regulate rates of transportation companies and the PUC may be given legislative, executive and judicial powers without restriction. The authority of the Legislature to confer such additional powers is unlimited by the existing Constitution.

Proposition 3 allows the Legislature to determine the powers of the PUC, but requires that those powers be "cognate and germane" to the regulation of public utilities. (Section 3)

The Legislature is elected by the people. Members of the PUC are appointed by the Governor for a 6 year term. Both the PUC and legislators are subject to outside influence, but legislators can be removed by voters at elections. For this reason, the Legislature is given more control over the operation of the PUC, but restricted in the amount of authority it can turn over to the PUC.

Section 19 is deleted as unnecessary because it is covered by statute. Read this Section; it only covers transportation passes and exempts "Railroad Commissioners", later defined as PUC members. Thus this Section does little to protect the public.

SENATOR GEORGE E. DANIELSON

4 PARTIAL CONSTITUTIONAL REVISION. Legislative Constitutional Amendment. Deletes from Constitution provisions relating to state institutions and public buildings and provisions relating to land, and homestead exemption. Renumbers provision relating to convict labor.

YES

NO

(For Full Text of Measure, See Page 22, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this measure is a vote to revise a portion of the California Constitution by deleting provisions relating to state penal institutions, homesteads and other property of heads of families, state lands, and unimproved private lands.

A "No" vote is a vote to retain these provisions in the Constitution.

For further details see below.

Detailed Analysis by the Legislative Counsel

This measure would revise Article X of the California Constitution dealing with state penal institutions, and repeal Article XVII, dealing with homesteads and other property of heads of families, state lands, and unimproved private lands. The revision retains one

existing provision without change. All other existing provisions are deleted from the Constitution, thus placing the subject matter of these provisions under legislative control through the enactment of statutes. One such statute is Chapter 854 of the Statutes of 1969, which has been enacted and will take effect if this measure is adopted.

Article X now contains provisions which specifically permit the Legislature to provide for the establishment and the governing of penal institutions. These provisions would be deleted.

Article X now contains a provision which prohibits the letting out of convict labor to any private person or agency and requires the Legislature to provide for the working of convicts for the benefit of the state. This provision would be retained and transferred to Article XX.

Article XVII now contains provisions directing the Legislature to protect a certain portion of the homestead and other property of all heads of families from forced sale, declaring the holding of large parcels of unimproved land to be against the public interest, and providing that state lands suitable for cultivation shall be granted only to actual settlers and in quantities not exceeding 320 acres to each settler, under conditions prescribed by law. These provisions would be deleted. (See analysis of Chapter 854, Statutes of 1969, below.)

Statutes Contingent Upon Adoption of Above Measure

The text of Chapter 854 of the Statutes of 1969, which was enacted to become operative if and when the above revision is approved, is on record in the office of the Secretary of State in Sacramento and also contained in the 1969 published Statutes. A digest of that chapter is as follows:

Enacts as part of the statutory law the provision which is now in Article XVII of the Constitution, providing that state lands which are suitable for cultivation shall be granted only to actual settlers in quantities not to exceed 320 acres for each settler, under conditions prescribed by law.

Argument in Favor of Proposition 4

Existing Article X deals with prisons. The Legislature clearly has authority without constitutional authorization to establish prisons and it has done so. Likewise, constitutional authority is not required to allow men and women prisoners to be treated differently. Therefore, the first two paragraphs of this Article are deleted from the Constitution and are treated by statute. The subject of the third paragraph is transferred to Article XX for future consideration due to pending court cases.

Article XVII is obsolete and unenforceable as a mandate to the Legislature and would be deleted with a YES vote on this proposition.

Section 1 of Article XVII mandates the Legislature to provide homestead protection without defining what that means. It is vague to the point of being meaningless and therefore will be deleted. Statutes now provide for extensive homestead protection in spite of this vague constitutional language.

Section 2 of Article XVII is a statement of policy which condemns holding of large tracts of undeveloped land. It was adopted in 1879. The provision is unenforceable because it is vague and may not be a true reflection of public policy in light of Article XXVIII adopted in 1966, which approved the existence of "open space lands".

Section 3 provides for settlement of land and is reenacted as statute. There are no lands to which this Section could now apply.

ASSEMBLYMAN JOE A. GONSALVES
SENATOR RICHARD J. DOLWIG
JUDGE BRUCE W. SUMNER,
Chairman, Constitution Revision Commission

Rebuttal to Argument in Favor of Proposition 4

We have a State Constitution to set forth the primary law of this State, laying down general principles as foundations on which statute law is built. If we are to remove these foundations on the grounds that they are "vague to the point of being meaningless," we deny the basic function of a constitution.

The State Constitution now requires homestead protection be provided. Not can be gained, and something could be lost, by removing that guarantee from the Constitution and leaving the Legislature without a mandate in this area. Since constitutions are harder to change than statute laws, any right of the people spelled out in the constitution is thereby better protected than if it is found only in a statute law.

JOHN G. SCHMITZ
State Senator, 34th District

Argument Against Proposition 4

This measure is one of four "package deal" revisions of the State Constitution which appear on this year's ballot in place of the single "package deal" revision which the voters rightly rejected in 1968. These package revisions—both of 1968 and of this year—were proposed by the Constitution Revision Commission, an appointed body originally established by the people with the expectation that it would simply eliminate obsolete or repetitive language in our State Constitution and revise its language, which has instead taken it upon itself to change the meaning as well as the language of the State Constitution. In the process the Constitution Revision Commission has increased its annual spending from \$45,000 to \$753,000 in just six years.

This measure removes the constitutional guarantee of homestead grants to actual settlers, transferring it from the constitution to statute law. Though a comparatively minor change, it ought to be rejected because of the

procedure used in introducing it. All substantive changes in the State Constitution should be initiated by the Legislature or directly by the people, not by any appointed commission, and should be voted on individually in every case.

JOHN G. SCHMITZ
State Senator, 34th District

Rebuttal to Argument Against Proposition 4

Propositions 2, 3, 4 and 5 were taken from the 1968 revision package and are now presented as a series of proposals. Propositions 2, 3, 4 and 5 were readopted by the Legislature in 1969 by a two-thirds vote of each house. Although recommended by the Constitution Revision Commission, these propositions were subject to change or rejection by the Legislature.

Members of the California Constitution Revision Commission are citizens appointed by the Legislature and they serve without pay. They have been working since 1964 to give

California a new Constitution. Recommendations approved by the people in 1966 have streamlined our executive branch, strengthened the judiciary, and helped make the California Legislature the finest in the country. The money spent on Commission work has been appropriated each year by the Legislature and no money is actually spent without prior approval by the Legislature. At no time has the Legislature spent as much on Commission work as claimed in the opposing argument. The figures in that argument are not only misleading—they are inaccurate.

There is no land in California available for homestead. Any land that might become available in the future can be settled in accordance with statutory law. This is what Proposition 4 proposes, and statutes to do this have already been signed into laws which will become effective upon approval of Proposition 4.

JUDGE BRUCE W. SUMNER,
Chairman,
Constitution Revision Commission

5	PARTIAL CONSTITUTIONAL REVISION: FUTURE CONSTITUTIONAL AMENDMENTS, STATE CIVIL SERVICE. Legislative Constitutional Amendment. Permits Legislature to revise its proposed constitutional changes before submission to electorate. Revises civil service provisions to exempt appointees of Lieutenant Governor and one employee of Public Utilities Commission.	YES	
		NO	

(For Full Text of Measure, See Page 23, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this measure is a vote to revise provisions of the California Constitution concerning (1) procedures for amending and revising the Constitution, (2) initiative and referendum, and (3) state civil service.

A "No" vote is a vote to reject this revision.

For further details see below.

Detailed Analysis by the Legislative Counsel

This measure would revise portions of Articles IV, XVIII, and XXIV of the California Constitution. The revision would retain some existing provisions without change and would restate other provisions some with and some without substantive change. In addition, certain existing provisions would be deleted from the Constitution thus placing the subject matter of the deleted provisions from then on under legislative control through the enactment of statutes. Chapter 853 of the Statutes of 1969 is such a statute. It will take effect if this measure is adopted.

Amending and Revising the Constitution and Initiative and Referendum Measures

Generally, Sections 22 and 24 of Article IV and Article XVIII of the Constitution now provide:

(1) Constitutional amendments may be proposed for submission to the voters (a) by the Legislature and (b) by electors through

the initiative process. Revision of the Constitution may be proposed by the Legislature.

(2) If provisions of two or more amendments proposed by initiative or referendum measures approved at the same election conflict, the provisions of the measure receiving the highest affirmative vote prevail. There is no such express provision regarding amendments proposed by the Legislature.

(3) The Legislature by two-thirds vote may submit to the voters the proposition as to whether to call a convention to revise the Constitution. If the proposition is approved by a majority of those voting on it, the Legislature at its next session must provide by law for the calling of a convention consisting of delegates (not to exceed the number of legislators) who are to be chosen in the same manner and to have the same qualifications as legislators. Delegates are required to meet within three months of their election.

The revision would retain the general substance of these provisions with the following major changes:

(1) A new provision would be added specifically authorizing the Legislature, by a two-thirds vote of the membership of each house, to amend or withdraw a constitutional amendment or revision which the Legislature has proposed where the action is taken before the proposal has been voted on by the electorate.

(2) (a) The general requirement that the Legislature provide for the constitutional convention at the session following the voters'

and county, or City or Town Council, or other governing body of such city and county, or city or town, by ordinance or otherwise, in the manner that other ordinances or legislative acts or resolutions are passed by such body, and shall continue in force for one year and no longer. Such ordinances or resolutions shall be passed in the month of February of each year, and take effect on the first day of July thereafter. Any Board or body failing to pass the necessary ordinances or resolutions fixing water rates, where necessary, within such time, shall be subject to peremptory process, to compel action at the suit of any party in-

terested, and shall be liable to such further processes and penalties as the Legislature may prescribe. Any person, company, or corporation, collecting water rates in any city and county, or city or town in this State, otherwise than as so established, shall forfeit the franchises and waterworks of such person, company, or corporation, to the city and county, or city or town where the same are collected, for the public use.

Fifth—That Section 23 is added to Article XX, to read:

Sec. 23. Laws concerning corporations may be amended or repealed.

4 PARTIAL CONSTITUTIONAL REVISION. Legislative Constitutional Amendment. Deletes from Constitution provisions relating to state institutions and public buildings and provisions relating to land, and homestead exemption. Renumbers provision relating to convict labor.

YES	
NO	

(This amendment proposed by Assembly Constitutional Amendment No. 30, 1969 Regular Session, expressly repeals existing articles of the Constitution, and adds a new section thereto; therefore, **EXISTING PROVISIONS** proposed to be **REPEALED** are printed in **STRIKEOUT TYPE**; and **NEW PROVISIONS** proposed to be **ADDED** are printed in **BOLDFACE TYPE**.)

PROPOSED AMENDMENTS TO ARTICLES X, XVII, AND XX

First—That Article X is repealed.

ARTICLE X

STATE INSTITUTIONS AND PUBLIC BUILDINGS

SECTION 1. The Legislature may provide for the establishment, government, charge and superintendence of all institutions for all persons convicted of felonies. For this purpose, the Legislature may delegate the government, charge and superintendence of such institutions to any public governmental agency or agencies, officers, or board or boards, whether now existing or hereafter created by it. Any of such agencies, officers, or boards shall have such powers, perform such duties and exercise such functions in respect to other reformatory or penal matters, as the Legislature may prescribe.

The Legislature may also provide for punishment, treatment, supervision, custody and care of females in a manner and under circumstances different from men similarly convicted.

The labor of convicts shall not be let out by contract to any person, copartnership, company or corporation, and the Legislature shall, by law, provide for the working of convicts for the benefit of the State.

Second—That Article XVII is repealed.

ARTICLE XVII

LAND, AND HOMESTEAD EXEMPTION

SECTION 1. The Legislature shall protect, by law, from forced sale a certain portion of the homestead and other property of all heads of families.

SEC. 2. The holding of large tracts of land, uncultivated and unimproved, by individuals or corporations, is against the public interest, and should be discouraged by all means not inconsistent with the rights of private property.

SEC. 3. Lands belonging to this State, which are suitable for cultivation, shall be granted only to actual settlers, and in quantities not exceeding three hundred and twenty acres to each settler, under such conditions as shall be prescribed by law.

Third—That former Paragraph 3 of Section 1 of Article X is added to Article XX as Section 24, to read:

Sec. 24. The labor of convicts shall not be let out by contract to any person, copartnership, company or corporation, and the Legislature shall, by law, provide for the working of convicts for the benefit of the State.