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CONSTITUTIONAL CONVENTION

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present one partially to amend the system proposed blindly, have consequences that can not be correctly estimated, and by palliating and tarding the process of scientific reorganiza-

For these reasons, it is believed the proposed amendment is inopportune and ill-advised, and should be rejected by the people of the state.

DAVID PRESCOTT BARROWS.

MUNICIPAL CHARTER AMENDMENTS. Senate Constitutional Amendment No. 8
Amends Section 8, Article XI, of Constitution. Requires proposed amendments to municipal charters be submitted to electors at special election called for that purpose or at any general or special election, and petitions for such submission be filed with legislative body of municipality at least sixty days before election; eliminates provisions requiring such submission be only during six months next preceding a regular session of Legislature or thereafter and before final adjournment thereof, and the filing of petitions for such submission at least sixty days before general election next preceding such session.

(For full text of Measure, see page 30, Part II)

Argument in Favor of Senate Constitutional Amendment No. 8

The purpose of this proposed amendment is twofold.

First. Under existing provisions of Section 8, Article XI of the constitution, proposed amendments to city charters must be submitted to the electors during the six months' period prior to the opening of the legislature and its final adjournment. The amendment strikes out the words "only during the six months preceding a regular session of the legislature or thereafter" and before final adjournment of that session so as to permit people of cities to vote on charter amendments whenever they desire. In nearly all the cities regular municipal elections are held in the spring and more than six months before the legislature opens, wherefore proposed charter amendments can not be submitted theretofore, but must be deferred to a special election to be called in the fall, which means additional expense and inconvenience, without serving any good purpose.

Second. Under other existing provisions of the section, petitions for the submission of charter amendments must be filed not less than sixty days prior to the general election, which precedes the opening of the legislature. There is no good reason why the people should not be permitted to submit such petitions at a later date if they so desire. A city council may propose charter amendments upon their own initiative at any time. Why not give the people the same right? The proposed amendment would strike out the words "general" and "next preceding a regular session of the legislature" so as to permit the people to file petitions for charter amendments at any time.

In brief, the proposed changes would allow the submission of charter amendments to the electors at any regular or special election whether proposed by the people or the city council. The amendment removes unreasonable restrictions and is in the interest of economy; therefore it should be adopted.

A number of civic organizations in California representing many municipalities are heartily in accord with the provisions of the proposed amendment. It passed both houses of the legislature without opposition.

HERBERT W. SLATER,
State Senator, Eighth District.

NELSON T. EDWARDS,
State Senator, Ninth District.

CONSTITUTIONAL CONVENTION. Senate Constitutional Amendment No. 5
Amends Section 2, Article XVIII, of Constitution. Provides for election within ten months after adoption hereof, on date fixed by Governor, of one hundred and twenty delegates, one from each senatorial and assembly district, to meet in convention at state capitol within three months after such election and frame new state constitution; empowers convention to employ clerks and experts; requires Legislature provide for expenses thereof and compensation of delegates; requires Constitution be submitted for adoption or rejection by majority of electors at election held therefor; provides for such election and proclamation of result.

(For full text of Measure, see page 32, Part II)

Argument in Favor of Senate Constitutional Amendment No. 5

The object and purpose of this amendment is to expedite the holding of a constitutional convention and to prescribe the details therefor. By the present section of the Constitution, it
requires two sessions of the legislature and two elections, including one general election, before a new constitution may be adopted. At present, the Constitution provides a more cumbersome plan and the details therefor are not specific. By this amendment, the details are all contained in this one enactment of the Legislature and submitted to the people.

For years there has been a growing recognition that a new constitution should be adopted, which will define simply the principles of our State government as they have developed during our period of statehood and again recte the privileges and rights which have been obscured in the flood of legislation which overwhelms the citizen in his pursuit of life, liberty and happiness. Former law-making has changed our form of government from one of limited powers to one of positive control of all the affairs of life. Everywhere we encounter government; it encroaches upon our dooms in the morning until we return to our homes at night, and our homes themselves are no longer safe from the intrusions of government. It has been an axiom of the art of government that they are the best governed who are least governed. This principle has been lost sight of and the theory substituted that more and more government is required as the citizen is a potential criminal. All this leads to an immense bureaucracy. A bureaucracy is a government by clerks.

This passion for law making has laid hands upon the Constitution. Our Constitution is no longer a limitation of power, but has become a code of laws. It now contains a tax system, a general educational system, a commission form of government, a system of county government, charters for our cities, the law of corporations, a Code of Civil Procedure even including the jurisdiction of justices of the peace. The three departments of government—Executive, Legislative and Judicial—are no longer separate and distinct. Commissions have legislative and judicial powers. We have forgotten the definition of a Constitution. It has been defined as a solemn compact deliberately and freely entered into by a free people, as between themselves, by which they limit the powers of their agents, the powers of majorities and the powers of themselves. The very term "constitution" implies an instrument of permanent and abiding nature. When the Federal Constitution and first state constitutions were joined, the idea of a constitution was that it outlined a government, provided for certain departments and some officers defined their functions and secured certain absolute and inalienable rights to the citizens.

The law-making power was vested wholly in the legislature. But the form of government is undergoing a change. Before this happened, the direct operation of the Constitution was upon government only, wisely limiting it. But now the direct operation of the Constitution is upon the people themselves. They are surrendering their power of law-making through the legislature, which is responsible to them, to a remote unyielding machine. Why is this so?

Here is the vice: By putting all this statute law in the Constitution, it becomes rigid. It requires an amendment to the Constitution to displace it. Much of this statutory law may be "noble experiment," but when it is put into the Constitution, it is no experiment—it is a permanent part of the government. No legislature can change it. It may lose its nobility, but a minority of the people can keep it there.

It is imperative then, to submit to the people the question of whether they desire this condition to continue or whether they desire to reclaim the original principles of our state government as developed by the progress and varying needs of the people and erect them into a real constitution.

It is the aim of this amendment to give them the opportunity, after full consideration in an election for this purpose alone, free from the distractions, issues and intrigues of a general election.

T. C. WEST, State Senator, Fourteenth District.

FRANK F. MERRIAM, State Senator, Thirty-third District.

Argument Against Senate Constitutional Amendment No. 5

Last legislature authorized the appointment of an expert commission to study the needs for revising the constitution, compare it with those of other states, draft a model constitution, and report to the 1931 legislature. This November before anything will be known regarding recommendations of the commission and whether a new constitution is advisable or how it may be best constructed, we are to elect delegates to the constitutional convention to assemble within ten months thereafter. The commissioners receive no pay for their services, have had less than a year for the task, while the members of the convention will receive pay and are given unlimited time for their work. Under such conditions, it is plain that the work of the commission can not be as thorough as the subject demands.

While there is a clamor for a new constitution, there is absolutely nothing to be gained by it, as many delegates will already have their minds set, and it will be impossible to change their thoughts, irrespective of the debate that will take place.

We are now singularly free from vexing constitutional controversies and uncertainties. But a new organic law will at once create the opposite condition, and an orgy of litigation and legislation arising therefrom and unsettling the law will be the inevitable result.

A state constitution must contain all the limitations upon the otherwise unlimited powers of governmental machinery it sets up. The more specific, detailed, comprehensive and practical these limitations are laid down, the more responsive will that government be to the people for whose welfare it is instituted and the less may its citizens experience the evils of arbitrary and irresponsible government. Under
American principles of home rule and citizen participation in state affairs the rights of the people must be amply defined and arbitrary limitation of officials circumscribed. The only way which this can be done is by ample constitutional provisions, and giving each citizen a fair, open and unlimited opportunity to consider every new change proposed. The Constitution, therefore, should be amended only part by part, subject by subject, and never by any method that subjects the future welfare and fortunes of the people to the hazards of a constitutional convention, composed of a limited number of persons, each one working for his own interest and willing to take a gambler’s chance upon the outcome.

THOMAS A. MALONEY,
State Senator, Twenty-third District.

ABSENCE OF JUDICIAL OFFICERS FROM STATE. AUTHORIZING LEGISLATURE TO CHANGE NUMBER OF SUPERIOR JUDGES.

Assembly Constitutional Amendment 27. Amends Section 9, Article VI of Constitution. Prohibits Legislature from granting leave of absence to any judicial officer; declares any such officer who absents himself from State for more than sixty consecutive days forfeits his office, but Governor may, on terms fixed by him, extend said period. Authorizes Legislature, by two-thirds vote of each house, to increase or diminish number of Superior Court judges in any county or city and county, but any reduction shall not affect elected judge.

(For full text of Measure, see page 33, Part II)

Argument in Favor of Assembly Constitutional Amendment No. 27

The Assembly Constitutional Amendment No. 27, seeking to amend Section 9 of Article VI of the State Constitution by vesting the Governor with the power and authority to extend the period of absence from the state of judicial officers beyond the sixty-day limitation, has received the unanimous concurrence and approval of all persons familiar with the administration of justice and court procedure in this state.

The present limitation, with the resultant forfeiture of office in the case of an absence for a greater period, has been conceded by all those familiar with the present conditions to be too stringent and to have become particularly unnecessary with the advent of the Judicial Council. The present limitation, with the resultant forfeiture of office in the case of an absence for a greater period, has been conceded by all those familiar with the present conditions to be too stringent and to have become particularly unnecessary with the advent of the Judicial Council.

While the inhibitions might have been salutary and necessary in the past, when we had but one Appellate tribunal in this State, and but too few judges in the courts of original jurisdiction of the several counties, the reasons for the law have manifestly ceased to exist now, for the Judicial Council may, in order to expedite the business of the several courts of original and Appellate jurisdiction, assign judges from one court to another of like or higher jurisdiction.

That the present restriction may operate as a deterrent for some able and efficient man to seek judicial office, or forcing those holding such office to relinquish same by reason thereof under certain compelling circumstances, is so plainly obvious that it requires no argument.

Like-wise have judges thus been prevented from making personal survey or investigation of procedure and administration of justice in other states, much less in other countries.

The case of Judge Hollzer, of the Superior Court of Los Angeles County, and Research Secretary for the Judicial Council, might well illustrate the necessity of the amendment. His investigations for the Judicial Council have upon numerous occasions taken him beyond the boundaries of the state for extensive periods. A leave of absence for a longer period can only be granted by the Governor, and upon terms which he in his discretion may impose, and he, naturally, will not grant an extension unless the circumstances should warrant and justify it, and not unless suitable provisions could be made for the handling of the judicial business of the absentee.

The amendment is but one of the many steps recently taken in the direction of making judicial office more attractive to our most eminent and capable jurists. It will eliminate an archaic provision of the Constitution, the reasons for which have ceased to exist. We should apply the time honored maxim that when the reason for a law ceases to exist the law itself must likewise cease.

An affirmative vote will be a vote for progress, efficiency and justice.

HARRY LYONS,
Assemblyman, Sixty-fourth District.

ERNEST C. CROWLEY,
Assemblyman, Tenth District.

Argument Against Assembly Constitutional Amendment No. 27

The Constitution provides that any judicial officer absenting himself from the State for more
CONSTITUTIONAL CONVENTION. Senate Constitutional Amendment 5.

Amends Section 2, Article XVIII, of Constitution. Provides for election within ten months after adoption hereof, on date fixed by Governor, of one hundred and twenty delegates, one from each senatorial and assembly district, to meet in convention at state capitol within three months after such election and frame new state constitution; empowers convention to employ clerks and experts; requires Legislature provide for expenses thereof and compensation of delegates; requires Constitution be submitted for adoption or rejection by majority of electors at election held therefor; provides for such election and proclamation of result.

Senate Constitutional Amendment No. 5.—A resolution to propose and submit to the people of the State of California an amendment to section 2, article eighteen of the constitution of the State of California, providing for the election of delegates to be assembled in convention for the purpose of framing a new constitution for the State of California.

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California, at its regular session commencing on the seventh day of January, A. D. 1929, two-thirds of all the members elected to each of the two houses of said Legislature voting in favor thereof, hereby proposes that section 2 of article eighteen of the constitution of the State of California be amended to read, as follows, to wit:

(This proposed amendment expressly amends an existing section of the Constitution; therefore EXISTING PROVISIONS proposed to be DELETED are printed in STRIKE-OUT TYPE; and NEW PROVISIONS proposed to be INSERTED are printed in BLACK-FACED TYPE.)

PROPOSED AMENDMENT TO THE CONSTITUTION.

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 the election to vote on the adoption of a convention; or for or against a convention for that purpose; and if a majority of the electorate 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 houses 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 cause the returns so certified to him and shall be the duty of the Executive to declare, by 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. Within ten months after the adoption hereof, a special election shall be held throughout the state, on a day to be fixed by proclamation of the governor, whereby one hundred twenty delegates, one from each assembly district and one from each senatorial district, or any or all of the said senators or assemblymen who may or may not be members of the Legislature, shall be elected, having the same qualifications and being chosen in the same manner as members of the Legislature, to form a convention, to meet in the state capitol, for the purpose of framing a new constitution for the State of California. Such convention shall assemble and organize for the transaction of its business within three months after said election of delegates, on a day to be fixed by proclamation of the governor, and shall thereafter continue in session in the state capitol until it shall have completed its business of framing a new constitution and provided for submitting the same to the vote of the people of the state for adoption or rejection. The compensation of each member of said convention in full payment for all services rendered, shall be fixed by the Legislature, but each delegate shall be entitled to the same mileage as is allowed to a member of the Legislature, and the convention shall have authority to employ such clerks and other attaches, as may be reasonably necessary for the transaction of its business and the accomplishment of its purpose, in addition to such experts as the convention shall deem necessary, and it shall be the duty of the Legislature to provide by law for the payment of all and singular the expenses of said election of delegates and their compensation and mileage and other expenses of said convention herein authorized. Within six months after the adjournment of said convention, on a day to be fixed by proclamation of the governor, a special election shall be held throughout the state, whereat the new constitution framed and proposed by said convention shall be submitted to the people for adoption or rejection, and it shall be the duty of the Legislature to provide by law for the payment of all and singular the expenses of such special election. At such special election the ballot shall contain the phrases "For the new constitution" and "Against the new constitution," printed thereon in a suitable place, with an appropriate space for each elector to designate his intention with reference to the adoption or rejection of the proposed new constitution. The election officers in each and every voting precinct in the state shall ascertain and make returns of the number of votes cast in favor of the new constitution and the number of votes cast against the new constitution, as aforesaid, in like manner and with the same particularity as other votes are by law required to be counted and returned, and an abstract thereof shall be transmitted by the several county clerks and registrars of voters throughout the state to the secretary of state, in the same manner and within the same time as votes for state officers are by law required to be

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transmitted. The secretary of state shall have authority and it shall be his duty to compel the making and transmission of such returns, and, when he shall have been received by him, he shall forthwith prepare and present to the governor a complete abstract of the whole number of votes cast in favor of the new constitution and of the whole number of votes cast against the new constitution. If it shall appear from such returns that a majority of the electors voting at such special election on the question of the adoption or rejection of such proposed new constitution shall have voted in favor of its adoption, the governor shall forthwith issue his proclamation declaring the result of said election and proclaiming such new constitution, thus ratified by the people as aforesaid, to be the constitution of the State of California, and the same shall thereupon become and be, subject only to the constitution of the United States of America, the supreme law and constitution of the State of California.

**ABSENCE OF JUDICIAL OFFICERS FROM STATE. AUTHORIZING LEGISLATURE TO CHANGE NUMBER OF SUPERIOR JUDGES.**

Assembly Constitutional Amendment 27. Amends Section 9, Article VI, of Constitution. Prohibits Legislature from granting leave of absence to any judicial officer; declares any such officer who absents himself from State for more than sixty consecutive days forfeits his office, but Governor may, on terms fixed by him, extend said period. Authorizes Legislature, by two-thirds vote of each house, to increase or diminish number of Superior Court judges in any county or city and county, but any reduction shall not affect elected judge.

Assembly Constitutional Amendment No. 27—A resolution to propose to the people of the State of California an amendment to the constitution of the State of California by amending section 9 of article six, relating to absence of judicial officers from the state.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its forty-eighth regular session commencing on the seventh day of January, 1929, two-thirds of all the members elected to each of the two houses of said Legislature voting in favor thereof, hereby proposes to the people of the State of California that section 9 of article six of the constitution of this state be amended to read as follows:

(This proposed amendment expressly amends an existing section of the constitution; therefore EXISTING PROVISIONS proposed to be DELETED, if any, are printed in STRIKE-OUT TYPE, and NEW PROVISIONS proposed to be INSERTED are printed in BLACK-FACED TYPE.)

PROPOSED AMENDMENT TO THE CONSTITUTION.

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; provided, however, that the governor of the state may, in his discretion and on such terms as he may fix, extend said period. 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.